

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Ting

January 16, 2015

An act to amend Sections 17024.5, 17053.46, 17053.47, 17053.74, 17088, 17144, 17215, 18155, 19141.5, 19164, 19167, 19183, 19772, 23622.7, 23622.8, 23646, 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, to add Sections 17240, 17241, 17323, 19131.5, 24345.5, 24454, and 24459 to, and to repeal Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, *and declaring the urgency thereof*, to take effect ~~immediately, tax levy: immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Ting. Taxation: federal conformity.

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2010, the specified date of those referenced Internal Revenue Code sections is January 1, 2009, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the

changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, extension of time for the payment of taxes, deductions for annual fees on branded prescription pharmaceutical manufacturers and importers, and penalty amounts related to the failure to file specified returns or include specified information on returns.

This bill would also specify various dates on which specified provisions apply and repeal obsolete provisions.

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

~~This bill would take effect immediately as a tax levy.~~

~~*This bill would declare that it is to take effect immediately as an urgency statute.*~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.~~

~~State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 17024.5 of the Revenue and Taxation
2 Code is amended to read:

3 17024.5. (a) (1) Unless otherwise specifically provided, the
4 terms "Internal Revenue Code," "Internal Revenue Code of 1954,"
5 or "Internal Revenue Code of 1986," for purposes of this part,
6 mean Title 26 of the United States Code, including all amendments
7 thereto as enacted on the specified date for the applicable taxable
8 year as follows:

| Taxable Year | Specified Date of Internal Revenue Code Sections |
|--|--|
| (A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983..... | January 15, 1983 |
| (B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984..... | January 1, 1984 |
| (C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985..... | January 1, 1985 |
| (D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986..... | January 1, 1986 |
| (E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988..... | January 1, 1987 |
| (F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989..... | January 1, 1989 |
| (G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990..... | January 1, 1990 |
| (H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991..... | January 1, 1991 |
| (I) For taxable years beginning on or after | |

- 1 January 1, 1992, and on or before December
- 2 31, 1992..... January 1, 1992
- 3 (J) For taxable years beginning on or after
- 4 January 1, 1993, and on or before December
- 5 31, 1996..... January 1, 1993
- 6 (K) For taxable years beginning on or after
- 7 January 1, 1997, and on or before December
- 8 31, 1997..... January 1, 1997
- 9 (L) For taxable years beginning on or after
- 10 January 1, 1998, and on or before December
- 11 31, 2001..... January 1, 1998
- 12 (M) For taxable years beginning on or after
- 13 January 1, 2002, and on or before December
- 14 31, 2004..... January 1, 2001
- 15 (N) For taxable years beginning on or after
- 16 January 1, 2005, and on or before December
- 17 31, 2009..... January 1, 2005
- 18 (O) For taxable years beginning on or after
- 19 January 1, 2010, and on or before December
- 20 31, 2014..... January 1, 2009
- 21 (P) For taxable years beginning on or after
- 22 January 1, 2015..... January 1, 2015

23

24 (2) (A) Unless otherwise specifically provided, for federal laws
 25 enacted on or after January 1, 1987, and on or before the specified
 26 date for the taxable year, uncodified provisions that relate to
 27 provisions of the Internal Revenue Code that are incorporated for
 28 purposes of this part shall be applicable to the same taxable years
 29 as the incorporated provisions.

30 (B) In the case where Section 901 of the Economic Growth and
 31 Tax Relief Act of 2001 (Public Law 107-16) applies to any
 32 provision of the Internal Revenue Code that is incorporated for
 33 purposes of this part, Section 901 of the Economic Growth and
 34 Tax Relief Act of 2001 shall apply for purposes of this part in the
 35 same manner and to the same taxable years as it applies for federal
 36 income tax purposes.

37 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
 38 H (Repeal of Expired or Obsolete Provisions) of the Revenue
 39 Reconciliation Act of 1990 (Public Law 101-508) modified
 40 numerous provisions of the Internal Revenue Code and provisions

1 of prior federal acts, some of which are incorporated by reference
2 into this part. Unless otherwise provided, the provisions described
3 in the preceding sentence, to the extent that they modify provisions
4 that are incorporated into this part, are declaratory of existing law
5 and shall be applied in the same manner and for the same periods
6 as specified in the Revenue Reconciliation Act of 1990.

7 (b) Unless otherwise specifically provided, when applying any
8 provision of the Internal Revenue Code for purposes of this part,
9 a reference to any of the following is not applicable for purposes
10 of this part:

11 (1) Except as provided in Chapter 4.5 (commencing with Section
12 23800) of Part 11 of Division 2, an electing small business
13 corporation, as defined in Section 1361(b) of the Internal Revenue
14 Code.

15 (2) Domestic international sales corporations (DISC), as defined
16 in Section 992(a) of the Internal Revenue Code.

17 (3) A personal holding company, as defined in Section 542 of
18 the Internal Revenue Code.

19 (4) A foreign personal holding company, as defined in Section
20 552 of the Internal Revenue Code.

21 (5) A foreign investment company, as defined in Section 1246(b)
22 of the Internal Revenue Code.

23 (6) A foreign trust, as defined in Section 679 of the Internal
24 Revenue Code.

25 (7) Foreign income taxes and foreign income tax credits.

26 (8) Section 911 of the Internal Revenue Code, relating to citizens
27 or residents of the United States living abroad.

28 (9) A foreign corporation, except that Section 367 of the Internal
29 Revenue Code shall be applicable.

30 (10) Federal tax credits and carryovers of federal tax credits.

31 (11) Nonresident aliens.

32 (12) Deduction for personal exemptions, as provided in Section
33 151 of the Internal Revenue Code.

34 (13) The tax on generation-skipping transfers imposed by
35 Section 2601 of the Internal Revenue Code.

36 (14) The tax, relating to estates, imposed by Section 2001 or
37 2101 of the Internal Revenue Code.

38 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
39 and Section 172 of the Tax Reform Act of 1984 (Public Law

1 98-369), relating to treatment of debt instruments, is not applicable
2 for taxable years beginning before January 1, 1987.

3 (2) The provisions contained in Public Law 99-121, relating to
4 the treatment of debt instruments, is not applicable for taxable
5 years beginning before January 1, 1987.

6 (3) For each taxable year beginning on or after January 1, 1987,
7 the provisions referred to by paragraphs (1) and (2) shall be
8 applicable for purposes of this part in the same manner and with
9 respect to the same obligations as the federal provisions, except
10 as otherwise provided in this part.

11 (d) When applying the Internal Revenue Code for purposes of
12 this part, regulations promulgated in final form or issued as
13 temporary regulations by “the secretary” shall be applicable as
14 regulations under this part to the extent that they do not conflict
15 with this part or with regulations issued by the Franchise Tax
16 Board.

17 (e) Whenever this part allows a taxpayer to make an election,
18 the following rules shall apply:

19 (1) A proper election filed with the Internal Revenue Service
20 in accordance with the Internal Revenue Code or regulations issued
21 by “the secretary” shall be deemed to be a proper election for
22 purposes of this part, unless otherwise provided in this part or in
23 regulations issued by the Franchise Tax Board.

24 (2) A copy of that election shall be furnished to the Franchise
25 Tax Board upon request.

26 (3) (A) Except as provided in subparagraph (B), in order to
27 obtain treatment other than that elected for federal purposes, a
28 separate election shall be filed at the time and in the manner
29 required by the Franchise Tax Board.

30 (B) (i) If a taxpayer makes a proper election for federal income
31 tax purposes prior to the time that taxpayer becomes subject to the
32 tax imposed under this part or Part 11 (commencing with Section
33 23001), that taxpayer is deemed to have made the same election
34 for purposes of the tax imposed by this part, Part 10.2 (commencing
35 with Section 18401), and Part 11 (commencing with Section
36 23001), as applicable, and that taxpayer may not make a separate
37 election for California tax purposes unless that separate election
38 is expressly authorized by this part, Part 10.2 (commencing with
39 Section 18401), or Part 11 (commencing with Section 23001), or
40 by regulations issued by the Franchise Tax Board.

1 (ii) If a taxpayer has not made a proper election for federal
2 income tax purposes prior to the time that taxpayer becomes subject
3 to tax under this part or Part 11 (commencing with Section 23001),
4 that taxpayer may not make a separate California election for
5 purposes of this part, Part 10.2 (commencing with Section 18401),
6 or Part 11 (commencing with Section 23001), unless that separate
7 election is expressly authorized by this part, Part 10.2 (commencing
8 with Section 18401), or Part 11 (commencing with Section 23001),
9 or by regulations issued by the Franchise Tax Board.

10 (iii) This subparagraph applies only to the extent that the
11 provisions of the Internal Revenue Code or the regulation issued
12 by “the secretary” authorizing an election for federal income tax
13 purposes apply for purposes of this part, Part 10.2 (commencing
14 with Section 18401) or Part 11 (commencing with Section 23001).

15 (f) Whenever this part allows or requires a taxpayer to file an
16 application or seek consent, the rules set forth in subdivision (e)
17 shall be applicable with respect to that application or consent.

18 (g) When applying the Internal Revenue Code for purposes of
19 determining the statute of limitations under this part, any reference
20 to a period of three years shall be modified to read four years for
21 purposes of this part.

22 (h) When applying, for purposes of this part, any section of the
23 Internal Revenue Code or any applicable regulation thereunder,
24 all of the following shall apply:

25 (1) References to “adjusted gross income” shall mean the
26 amount computed in accordance with Section 17072, except as
27 provided in paragraph (2).

28 (2) (A) Except as provided in subparagraph (B), references to
29 “adjusted gross income” for purposes of computing limitations
30 based upon adjusted gross income, shall mean the amount required
31 to be shown as adjusted gross income on the federal tax return for
32 the same taxable year.

33 (B) In the case of registered domestic partners and former
34 registered domestic partners, adjusted gross income, for the
35 purposes of computing limitations based upon adjusted gross
36 income, shall mean the adjusted gross income on a federal tax
37 return computed as if the registered domestic partner or former
38 registered domestic partner was treated as a spouse or former
39 spouse, respectively, for federal income tax purposes, and used

1 the same filing status that was used on the state tax return for the
2 same taxable year.

3 (3) Any reference to “subtitle” or “chapter” shall mean this part.

4 (4) The provisions of Section 7806 of the Internal Revenue
5 Code, relating to construction of title, shall apply.

6 (5) Any provision of the Internal Revenue Code that becomes
7 operative on or after the specified date for that taxable year shall
8 become operative on the same date for purposes of this part.

9 (6) Any provision of the Internal Revenue Code that becomes
10 inoperative on or after the specified date for that taxable year shall
11 become inoperative on the same date for purposes of this part.

12 (7) Due account shall be made for differences in federal and
13 state terminology, effective dates, substitution of “Franchise Tax
14 Board” for “secretary” when appropriate, and other obvious
15 differences.

16 (8) Except as otherwise provided, any reference to Section 501
17 of the Internal Revenue Code shall be interpreted to also refer to
18 Section 23701.

19 (i) Any reference to a specific provision of the Internal Revenue
20 Code shall include modifications of that provision, if any, in this
21 part.

22 SEC. 2. Section 17053.46 of the Revenue and Taxation Code
23 is amended to read:

24 17053.46. (a) For each taxable year beginning on or after
25 January 1, 1995, there shall be allowed as a credit against the “net
26 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
27 a qualified disadvantaged individual or a qualified displaced
28 employee during the taxable year for employment in the LAMBRA.
29 The credit shall be equal to the sum of each of the following:

30 (1) Fifty percent of the qualified wages in the first year of
31 employment.

32 (2) Forty percent of the qualified wages in the second year of
33 employment.

34 (3) Thirty percent of the qualified wages in the third year of
35 employment.

36 (4) Twenty percent of the qualified wages in the fourth year of
37 employment.

38 (5) Ten percent of the qualified wages in the fifth year of
39 employment.

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that does not exceed 150 percent
5 of the minimum wage.

6 (B) The total amount of qualified wages which may be taken
7 into account for purposes of claiming the credit allowed under this
8 section shall not exceed two million dollars (\$2,000,000) per
9 taxable year.

10 (C) Wages received during the 60-month period beginning with
11 the first day the individual commences employment with the
12 taxpayer. Reemployment in connection with any increase, including
13 a regularly occurring seasonal increase, in the trade or business
14 operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (D) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the LAMBRA expiration date.
18 However, wages paid or incurred with respect to qualified
19 disadvantaged individuals or qualified displaced employees who
20 are employed by the qualified taxpayer within the LAMBRA within
21 the 60-month period prior to the LAMBRA expiration date shall
22 continue to qualify for the credit under this section after the
23 LAMBRA expiration date, in accordance with all provisions of
24 this section applied as if the LAMBRA designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by the
27 Industrial Welfare Commission as provided for in Chapter 1
28 (commencing with Section 1171) of Part 4 of Division 2 of the
29 Labor Code.

30 (3) “LAMBRA” means a local agency military base recovery
31 area designated in accordance with Section 7114 of the Government
32 Code.

33 (4) “Qualified disadvantaged individual” means an individual
34 who satisfies all of the following requirements:

35 (A) (i) At least 90 percent of whose services for the taxpayer
36 during the taxable year are directly related to the conduct of the
37 taxpayer’s trade or business located in a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her services for
39 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 (i) An individual who has been determined eligible for services
7 under the federal Job Training Partnership Act (29 U.S.C. Sec.
8 1501 et seq.).

9 (ii) Any voluntary or mandatory registrant under the Greater
10 Avenues for Independence Act of 1985 as provided pursuant to
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
12 3 of Division 9 of the Welfare and Institutions Code.

13 (iii) An economically disadvantaged individual age 16 years or
14 older.

15 (iv) A dislocated worker who meets any of the following
16 conditions:

17 (I) Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 (II) Has been terminated or has received a notice of termination
22 of employment as a result of any permanent closure or any
23 substantial layoff at a plant, facility, or enterprise, including an
24 individual who has not received written notification but whose
25 employer has made a public announcement of the closure or layoff.

26 (III) Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 (IV) Was self-employed (including farmers and ranchers) and
32 is unemployed as a result of general economic conditions in the
33 community in which he or she resides or because of natural
34 disasters.

35 (V) Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 (VI) Was an active member of the Armed Forces or National
39 Guard as of September 30, 1990, and was either involuntarily
40 separated or separated pursuant to a special benefits program.

1 (VII) Experiences chronic seasonal unemployment and
2 underemployment in the agriculture industry, aggravated by
3 continual advancements in technology and mechanization.

4 (VIII) Has been terminated or laid off or has received a notice
5 of termination or layoff as a consequence of compliance with the
6 Clean Air Act.

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a service-connected disabled veteran,
9 veteran of the Vietnam era, or veteran who is recently separated
10 from military service.

11 (vi) An ex-offender. An individual shall be treated as convicted
12 if he or she was placed on probation by a state court without a
13 finding of guilty.

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) CalFresh benefits.

18 (IV) State and local general assistance.

19 (viii) Is a member of a federally recognized Indian tribe, band,
20 or other group of Native American descent.

21 (5) “Qualified taxpayer” means a taxpayer or partnership that
22 conducts a trade or business within a LAMBRA and, for the first
23 two taxable years, has a net increase in jobs (defined as 2,000 paid
24 hours per employee per year) of one or more employees in the
25 LAMBRA.

26 (A) The net increase in the number of jobs shall be determined
27 by subtracting the total number of full-time employees (defined
28 as 2,000 paid hours per employee per year) the taxpayer employed
29 in this state in the taxable year prior to commencing business
30 operations in the LAMBRA from the total number of full-time
31 employees the taxpayer employed in this state during the second
32 taxable year after commencing business operations in the
33 LAMBRA. For taxpayers who commence doing business in this
34 state with their LAMBRA business operation, the number of
35 employees for the taxable year prior to commencing business
36 operations in the LAMBRA shall be zero. If the taxpayer has a net
37 increase in jobs in the state, the credit shall be allowed only if one
38 or more full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the LAMBRA
40 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a taxpayer who first commences doing
8 business in the LAMBRA during the taxable year, for purposes of
9 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
10 “2,000” and “12” shall be multiplied by a fraction, the numerator
11 of which is the number of months of the taxable year that the
12 taxpayer was doing business in the LAMBRA and the denominator
13 of which is 12.

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 who has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

25 (7) “Seasonal employment” means employment by a qualified
26 taxpayer that has regular and predictable substantial reductions in
27 trade or business operations.

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, becomes inoperative, or
30 is repealed.

31 (c) For qualified disadvantaged individuals or qualified displaced
32 employees hired on or after January 1, 2001, the taxpayer shall do
33 both of the following:

34 (1) Obtain from the Employment Development Department, as
35 permitted by federal law, the local county or city Job Training
36 Partnership Act administrative entity, the local county GAIN office
37 or social services agency, or the local government administering
38 the LAMBRA, a certification that provides that a qualified
39 disadvantaged individual or qualified displaced employee meets
40 the eligibility requirements specified in subparagraph (C) of

1 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
2 (6) of subdivision (b). The Employment Development Department
3 may provide preliminary screening and referral to a certifying
4 agency. The Department of Housing and Community Development
5 shall develop regulations governing the issuance of certificates
6 pursuant to Section 7114.2 of the Government Code and shall
7 develop forms for this purpose.

8 (2) Retain a copy of the certification and provide it upon request
9 to the Franchise Tax Board.

10 (d) (1) For purposes of this section, both of the following apply:

11 (A) All employees of trades or businesses that are under
12 common control shall be treated as employed by a single employer.

13 (B) The credit (if any) allowable by this section with respect to
14 each trade or business shall be determined by reference to its
15 proportionate share of the qualified wages giving rise to the credit.

16 The regulations prescribed under this paragraph shall be based
17 on principles similar to the principles that apply in the case of
18 controlled groups of corporations as specified in subdivision (e)
19 of Section 23622.

20 (2) If an employer acquires the major portion of a trade or
21 business of another employer (hereinafter in this paragraph referred
22 to as the “predecessor”) or the major portion of a separate unit of
23 a trade or business of a predecessor, then, for purposes of applying
24 this section (other than subdivision (d)) for any calendar year
25 ending after that acquisition, the employment relationship between
26 an employee and an employer shall not be treated as terminated if
27 the employee continues to be employed in that trade or business.

28 (e) (1) (A) If the employment, other than seasonal employment,
29 of any employee, with respect to whom qualified wages are taken
30 into account under subdivision (a), is terminated by the taxpayer
31 at any time during the first 270 days of that employment (whether
32 or not consecutive) or before the close of the 270th calendar day
33 after the day in which that employee completes 90 days of
34 employment with the taxpayer, the tax imposed by this part for
35 the taxable year in which that employment is terminated shall be
36 increased by an amount (determined under those regulations) equal
37 to the credit allowed under subdivision (a) for that taxable year
38 and all prior taxable years attributable to qualified wages paid or
39 incurred with respect to that employee.

1 (B) If the seasonal employment of any qualified disadvantaged
2 individual, with respect to whom qualified wages are taken into
3 account under subdivision (a), is not continued by the qualified
4 taxpayer for a period of 270 days of employment during the
5 60-month period beginning with the day the qualified
6 disadvantaged individual commences seasonal employment with
7 the qualified taxpayer, the tax imposed by this part, for the taxable
8 year that includes the 60th month following the month in which
9 the qualified disadvantaged individual commences seasonal
10 employment with the qualified taxpayer, shall be increased by an
11 amount equal to the credit allowed under subdivision (a) for that
12 taxable year and all prior taxable years attributable to qualified
13 wages paid or incurred with respect to that qualified disadvantaged
14 individual.

15 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
16 any of the following:

17 (i) A termination of employment of an employee who voluntarily
18 leaves the employment of the taxpayer.

19 (ii) A termination of employment of an individual who, before
20 the close of the period referred to in subparagraph (A) of paragraph
21 (1), becomes disabled to perform the services of that employment,
22 unless that disability is removed before the close of that period
23 and the taxpayer fails to offer reemployment to that individual.

24 (iii) A termination of employment of an individual, if it is
25 determined that the termination was due to the misconduct (as
26 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
27 the California Code of Regulations) of that individual.

28 (iv) A termination of employment of an individual due to a
29 substantial reduction in the trade or business operations of the
30 taxpayer.

31 (v) A termination of employment of an individual, if that
32 individual is replaced by other qualified employees so as to create
33 a net increase in both the number of employees and the hours of
34 employment.

35 (B) Subparagraph (B) of paragraph (1) shall not apply to any
36 of the following:

37 (i) A failure to continue the seasonal employment of a qualified
38 disadvantaged individual who voluntarily fails to return to the
39 seasonal employment of the qualified taxpayer.

1 (ii) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual who, before the close of the period
3 referred to in subparagraph (B) of paragraph (1), becomes disabled
4 and unable to perform the services of that seasonal employment,
5 unless that disability is removed before the close of that period
6 and the qualified taxpayer fails to offer seasonal employment to
7 that individual.

8 (iii) A failure to continue the seasonal employment of a qualified
9 disadvantaged individual, if it is determined that the failure to
10 continue the seasonal employment was due to the misconduct (as
11 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
12 the California Code of Regulations) of that qualified disadvantaged
13 individual.

14 (iv) A failure to continue seasonal employment of a qualified
15 disadvantaged individual due to a substantial reduction in the
16 regular seasonal trade or business operations of the qualified
17 taxpayer.

18 (v) A failure to continue the seasonal employment of a qualified
19 disadvantaged individual, if that individual is replaced by other
20 qualified displaced employees so as to create a net increase in both
21 the number of seasonal employees and the hours of seasonal
22 employment.

23 (C) For purposes of paragraph (1), the employment relationship
24 between the taxpayer and an employee shall not be treated as
25 terminated by reason of a mere change in the form of conducting
26 the trade or business of the taxpayer, if the employee continues to
27 be employed in that trade or business and the taxpayer retains a
28 substantial interest in that trade or business.

29 (3) Any increase in tax under paragraph (1) shall not be treated
30 as tax imposed by this part for purposes of determining the amount
31 of any credit allowable under this part.

32 (4) At the close of the second taxable year, if the taxpayer has
33 not increased the number of its employees as determined by
34 paragraph (5) of subdivision (b), then the amount of the credit
35 previously claimed shall be added to the taxpayer's net tax for the
36 taxpayer's second taxable year.

37 (f) In the case of an estate or trust, both of the following apply:

38 (1) The qualified wages for any taxable year shall be apportioned
39 between the estate or trust and the beneficiaries on the basis of the
40 income of the estate or trust allocable to each.

1 (2) Any beneficiary to whom any qualified wages have been
2 apportioned under paragraph (1) shall be treated (for purposes of
3 this part) as the employer with respect to those wages.

4 (g) The credit shall be reduced by the credit allowed under
5 Section 17053.7. The credit shall also be reduced by the federal
6 credit allowed under Section 51 of the Internal Revenue Code, as
7 amended by the Emergency Economic Stabilization Act of 2008
8 (Public Law 110-343).

9 In addition, any deduction otherwise allowed under this part for
10 the wages or salaries paid or incurred by the taxpayer upon which
11 the credit is based shall be reduced by the amount of the credit,
12 prior to any reduction required by subdivision (h) or (i).

13 (h) In the case where the credit otherwise allowed under this
14 section exceeds the “net tax” for the taxable year, that portion of
15 the credit that exceeds the “net tax” may be carried over and added
16 to the credit, if any, in the succeeding 10 taxable years, if necessary,
17 until the credit is exhausted. The credit shall be applied first to the
18 earliest taxable years possible.

19 (i) (1) The amount of credit otherwise allowed under this section
20 and Section 17053.45, including prior year credit carryovers, that
21 may reduce the “net tax” for the taxable year shall not exceed the
22 amount of tax that would be imposed on the taxpayer’s business
23 income attributed to a LAMBRA determined as if that attributed
24 income represented all of the net income of the taxpayer subject
25 to tax under this part.

26 (2) Attributable income shall be that portion of the taxpayer’s
27 California source business income that is apportioned to the
28 LAMBRA. For that purpose, the taxpayer’s business income that
29 is attributable to sources in this state first shall be determined in
30 accordance with Chapter 17 (commencing with Section 25101) of
31 Part 11. That business income shall be further apportioned to the
32 LAMBRA in accordance with Article 2 (commencing with Section
33 25120) of Chapter 17 of Part 11, modified for purposes of this
34 section in accordance with paragraph (3).

35 (3) Income shall be apportioned to a LAMBRA by multiplying
36 the total California business income of the taxpayer by a fraction,
37 the numerator of which is the property factor plus the payroll factor,
38 and the denominator of which is two. For purposes of this
39 paragraph:

1 (A) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the LAMBRA during the
4 taxable year, and the denominator of which is the average value
5 of all the taxpayer's real and tangible personal property owned or
6 rented and used in this state during the taxable year.

7 (B) The payroll factor is a fraction, the numerator of which is
8 the total amount paid by the taxpayer in the LAMBRA during the
9 taxable year for compensation, and the denominator of which is
10 the total compensation paid by the taxpayer in this state during the
11 taxable year.

12 (4) The portion of any credit remaining, if any, after application
13 of this subdivision, shall be carried over to succeeding taxable
14 years, if necessary, until the credit is exhausted, as if it were an
15 amount exceeding the "net tax" for the taxable year, as provided
16 in subdivision (h). However, the portion of any credit remaining
17 for carryover to taxable years beginning on or after January 1,
18 2014, if any, after application of this subdivision, shall be carried
19 over only to the succeeding 10 taxable years if necessary, until the
20 credit is exhausted, as if it were an amount exceeding the "net tax"
21 for the taxable year, as provided in subdivision (h).

22 (j) If the taxpayer is allowed a credit pursuant to this section for
23 qualified wages paid or incurred, only one credit shall be allowed
24 to the taxpayer under this part with respect to any wage consisting
25 in whole or in part of those qualified wages.

26 (k) (1) Except as provided in paragraph (2), this section shall
27 cease to be operative on January 1, 2014, and shall be repealed on
28 December 1, 2019. A credit shall not be allowed under this section
29 with respect to an employee who first commences employment
30 with a qualified taxpayer on or after January 1, 2014.

31 (2) This section shall continue to apply with respect to qualified
32 disadvantaged individuals or qualified displaced employees who
33 are employed by the qualified taxpayer within the LAMBRA within
34 the 60-month period immediately preceding January 1, 2014, and
35 qualified wages paid or incurred with respect to those qualified
36 disadvantaged individuals or qualified displaced employees shall
37 continue to qualify for the credit under this section for taxable
38 years beginning on or after January 1, 2014, in accordance with
39 this section, as amended by the act adding this subdivision.

1 SEC. 3. Section 17053.47 of the Revenue and Taxation Code
2 is amended to read:

3 17053.47. (a) For each taxable year beginning on or after
4 January 1, 1998, there shall be allowed a credit against the “net
5 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
6 a qualified disadvantaged individual during the taxable year for
7 employment in the manufacturing enhancement area. The credit
8 shall be equal to the sum of each of the following:

9 (1) Fifty percent of the qualified wages in the first year of
10 employment.

11 (2) Forty percent of the qualified wages in the second year of
12 employment.

13 (3) Thirty percent of the qualified wages in the third year of
14 employment.

15 (4) Twenty percent of the qualified wages in the fourth year of
16 employment.

17 (5) Ten percent of the qualified wages in the fifth year of
18 employment.

19 (b) For purposes of this section:

20 (1) “Qualified wages” means:

21 (A) That portion of wages paid or incurred by the qualified
22 taxpayer during the taxable year to qualified disadvantaged
23 individuals that does not exceed 150 percent of the minimum wage.

24 (B) The total amount of qualified wages which may be taken
25 into account for purposes of claiming the credit allowed under this
26 section shall not exceed two million dollars (\$2,000,000) per
27 taxable year.

28 (C) Wages received during the 60-month period beginning with
29 the first day the qualified disadvantaged individual commences
30 employment with the qualified taxpayer. Reemployment in
31 connection with any increase, including a regularly occurring
32 seasonal increase, in the trade or business operations of the taxpayer
33 does not constitute commencement of employment for purposes
34 of this section.

35 (D) Qualified wages do not include any wages paid or incurred
36 by the qualified taxpayer on or after the manufacturing
37 enhancement area expiration date. However, wages paid or incurred
38 with respect to qualified employees who are employed by the
39 qualified taxpayer within the manufacturing enhancement area
40 within the 60-month period prior to the manufacturing enhancement

1 area expiration date shall continue to qualify for the credit under
2 this section after the manufacturing enhancement area expiration
3 date, in accordance with all provisions of this section applied as
4 if the manufacturing enhancement area designation were still in
5 existence and binding.

6 (2) “Minimum wage” means the wage established by the
7 Industrial Welfare Commission as provided for in Chapter 1
8 (commencing with Section 1171) of Part 4 of Division 2 of the
9 Labor Code.

10 (3) “Manufacturing enhancement area” means an area designated
11 pursuant to Section 7073.8 of the Government Code according to
12 the procedures of Chapter 12.8 (commencing with Section 7070)
13 of Division 7 of Title 1 of the Government Code.

14 (4) “Manufacturing enhancement area expiration date” means
15 the date the manufacturing enhancement area designation expires,
16 is no longer binding, becomes inoperative, or is repealed.

17 (5) “Qualified disadvantaged individual” means an individual
18 who satisfies all of the following requirements:

19 (A) (i) At least 90 percent of whose services for the qualified
20 taxpayer during the taxable year are directly related to the conduct
21 of the qualified taxpayer’s trade or business located in a
22 manufacturing enhancement area.

23 (ii) Who performs at least 50 percent of his or her services for
24 the qualified taxpayer during the taxable year in the manufacturing
25 enhancement area.

26 (B) Who is hired by the qualified taxpayer after the designation
27 of the area as a manufacturing enhancement area in which the
28 individual’s services were primarily performed.

29 (C) Who is any of the following immediately preceding the
30 individual’s commencement of employment with the qualified
31 taxpayer:

32 (i) An individual who has been determined eligible for services
33 under the federal Job Training Partnership Act (29 U.S.C. Sec.
34 1501 et seq.), or its successor.

35 (ii) Any voluntary or mandatory registrant under the Greater
36 Avenues for Independence Act of 1985, or its successor, as
37 provided pursuant to Article 3.2 (commencing with Section 11320)
38 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
39 Code.

1 (iii) Any individual who has been certified eligible by the
2 Employment Development Department under the federal Targeted
3 Jobs Tax Credit Program, or its successor, whether or not this
4 program is in effect.

5 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
6 or business within a manufacturing enhancement area designated
7 pursuant to Section 7073.8 of the Government Code and who meets
8 all of the following requirements:

9 (A) Is engaged in those lines of business described in Codes
10 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
11 inclusive, of the Standard Industrial Classification (SIC) Manual
12 published by the United States Office of Management and Budget,
13 1987 edition.

14 (B) At least 50 percent of the qualified taxpayer’s workforce
15 hired after the designation of the manufacturing enhancement area
16 is composed of individuals who, at the time of hire, are residents
17 of the county in which the manufacturing enhancement area is
18 located.

19 (C) Of this percentage of local hires, at least 30 percent shall
20 be qualified disadvantaged individuals.

21 (7) “Seasonal employment” means employment by a qualified
22 taxpayer that has regular and predictable substantial reductions in
23 trade or business operations.

24 (c) (1) For purposes of this section, all of the following apply:

25 (A) All employees of trades or businesses that are under
26 common control shall be treated as employed by a single qualified
27 taxpayer.

28 (B) The credit (if any) allowable by this section with respect to
29 each trade or business shall be determined by reference to its
30 proportionate share of the expense of the qualified wages giving
31 rise to the credit and shall be allocated in that manner.

32 (C) Principles that apply in the case of controlled groups of
33 corporations, as specified in subdivision (d) of Section 23622.7,
34 shall apply with respect to determining employment.

35 (2) If a qualified taxpayer acquires the major portion of a trade
36 or business of another employer (hereinafter in this paragraph
37 referred to as the “predecessor”) or the major portion of a separate
38 unit of a trade or business of a predecessor, then, for purposes of
39 applying this section (other than subdivision (d)) for any calendar
40 year ending after that acquisition, the employment relationship

1 between a qualified disadvantaged individual and a qualified
2 taxpayer shall not be treated as terminated if the qualified
3 disadvantaged individual continues to be employed in that trade
4 or business.

5 (d) (1) (A) If the employment, other than seasonal employment,
6 of any qualified disadvantaged individual, with respect to whom
7 qualified wages are taken into account under subdivision (b) is
8 terminated by the qualified taxpayer at any time during the first
9 270 days of that employment (whether or not consecutive) or before
10 the close of the 270th calendar day after the day in which that
11 qualified disadvantaged individual completes 90 days of
12 employment with the qualified taxpayer, the tax imposed by this
13 part for the taxable year in which that employment is terminated
14 shall be increased by an amount equal to the credit allowed under
15 subdivision (a) for that taxable year and all prior taxable years
16 attributable to qualified wages paid or incurred with respect to that
17 qualified disadvantaged individual.

18 (B) If the seasonal employment of any qualified disadvantaged
19 individual, with respect to whom qualified wages are taken into
20 account under subdivision (a) is not continued by the qualified
21 taxpayer for a period of 270 days of employment during the
22 60-month period beginning with the day the qualified
23 disadvantaged individual commences seasonal employment with
24 the qualified taxpayer, the tax imposed by this part, for the taxable
25 year that includes the 60th month following the month in which
26 the qualified disadvantaged individual commences seasonal
27 employment with the qualified taxpayer, shall be increased by an
28 amount equal to the credit allowed under subdivision (a) for that
29 taxable year and all prior taxable years attributable to qualified
30 wages paid or incurred with respect to that qualified disadvantaged
31 individual.

32 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
33 any of the following:

34 (i) A termination of employment of a qualified disadvantaged
35 individual who voluntarily leaves the employment of the qualified
36 taxpayer.

37 (ii) A termination of employment of a qualified disadvantaged
38 individual who, before the close of the period referred to in
39 subparagraph (A) of paragraph (1), becomes disabled to perform
40 the services of that employment, unless that disability is removed

1 before the close of that period and the taxpayer fails to offer
2 reemployment to that individual.

3 (iii) A termination of employment of a qualified disadvantaged
4 individual, if it is determined that the termination was due to the
5 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
6 of Title 22 of the California Code of Regulations) of that individual.

7 (iv) A termination of employment of a qualified disadvantaged
8 individual due to a substantial reduction in the trade or business
9 operations of the qualified taxpayer.

10 (v) A termination of employment of a qualified disadvantaged
11 individual, if that individual is replaced by other qualified
12 disadvantaged individuals so as to create a net increase in both the
13 number of employees and the hours of employment.

14 (B) Subparagraph (B) of paragraph (1) shall not apply to any
15 of the following:

16 (i) A failure to continue the seasonal employment of a qualified
17 disadvantaged individual who voluntarily fails to return to the
18 seasonal employment of the qualified taxpayer.

19 (ii) A failure to continue the seasonal employment of a qualified
20 disadvantaged individual who, before the close of the period
21 referred to in subparagraph (B) of paragraph (1), becomes disabled
22 and unable to perform the services of that seasonal employment,
23 unless that disability is removed before the close of that period
24 and the qualified taxpayer fails to offer seasonal employment to
25 that qualified disadvantaged individual.

26 (iii) A failure to continue the seasonal employment of a qualified
27 disadvantaged individual, if it is determined that the failure to
28 continue the seasonal employment was due to the misconduct (as
29 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
30 the California Code of Regulations) of that qualified disadvantaged
31 individual.

32 (iv) A failure to continue seasonal employment of a qualified
33 disadvantaged individual due to a substantial reduction in the
34 regular seasonal trade or business operations of the qualified
35 taxpayer.

36 (v) A failure to continue the seasonal employment of a qualified
37 disadvantaged individual, if that qualified disadvantaged individual
38 is replaced by other qualified disadvantaged individuals so as to
39 create a net increase in both the number of seasonal employees
40 and the hours of seasonal employment.

1 (C) For purposes of paragraph (1), the employment relationship
2 between the qualified taxpayer and a qualified disadvantaged
3 individual shall not be treated as terminated by reason of a mere
4 change in the form of conducting the trade or business of the
5 qualified taxpayer, if the qualified disadvantaged individual
6 continues to be employed in that trade or business and the qualified
7 taxpayer retains a substantial interest in that trade or business.

8 (3) Any increase in tax under paragraph (1) shall not be treated
9 as tax imposed by this part for purposes of determining the amount
10 of any credit allowable under this part.

11 (e) In the case of an estate or trust, both of the following apply:

12 (1) The qualified wages for any taxable year shall be apportioned
13 between the estate or trust and the beneficiaries on the basis of the
14 income of the estate or trust allocable to each.

15 (2) Any beneficiary to whom any qualified wages have been
16 apportioned under paragraph (1) shall be treated (for purposes of
17 this part) as the employer with respect to those wages.

18 (f) The credit shall be reduced by the credit allowed under
19 Section 17053.7. The credit shall also be reduced by the federal
20 credit allowed under Section 51 of the Internal Revenue Code, as
21 amended by the Emergency Economic Stabilization Act of 2008
22 (Public Law 110-343).

23 In addition, any deduction otherwise allowed under this part for
24 the wages or salaries paid or incurred by the qualified taxpayer
25 upon which the credit is based shall be reduced by the amount of
26 the credit, prior to any reduction required by subdivision (g) or
27 (h).

28 (g) In the case where the credit otherwise allowed under this
29 section exceeds the “net tax” for the taxable year, that portion of
30 the credit that exceeds the “net tax” may be carried over and added
31 to the credit, if any, in the succeeding 10 taxable years, if necessary,
32 until the credit is exhausted. The credit shall be applied first to the
33 earliest taxable years possible.

34 (h) (1) The amount of credit otherwise allowed under this
35 section, including prior year credit carryovers, that may reduce
36 the “net tax” for the taxable year shall not exceed the amount of
37 tax that would be imposed on the qualified taxpayer’s business
38 income attributed to a manufacturing enhancement area determined
39 as if that attributed income represented all of the net income of the
40 qualified taxpayer subject to tax under this part.

1 (2) Attributable income shall be that portion of the taxpayer's
2 California source business income that is apportioned to the
3 manufacturing enhancement area. For that purpose, the taxpayer's
4 business income that is attributable to sources in this state first
5 shall be determined in accordance with Chapter 17 (commencing
6 with Section 25101) of Part 11. That business income shall be
7 further apportioned to the manufacturing enhancement area in
8 accordance with Article 2 (commencing with Section 25120) of
9 Chapter 17 of Part 11, modified for purposes of this section in
10 accordance with paragraph (3).

11 (3) Income shall be apportioned to a manufacturing enhancement
12 area by multiplying the total California business income of the
13 taxpayer by a fraction, the numerator of which is the property
14 factor plus the payroll factor, and the denominator of which is two.
15 For purposes of this paragraph:

16 (A) The property factor is a fraction, the numerator of which is
17 the average value of the taxpayer's real and tangible personal
18 property owned or rented and used in the manufacturing
19 enhancement area during the taxable year, and the denominator
20 of which is the average value of all the taxpayer's real and tangible
21 personal property owned or rented and used in this state during
22 the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the manufacturing
25 enhancement area during the taxable year for compensation, and
26 the denominator of which is the total compensation paid by the
27 taxpayer in this state during the taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, if necessary, until the credit is exhausted, as if it were an
31 amount exceeding the "net tax" for the taxable year, as provided
32 in subdivision (g). However, the portion of any credit remaining
33 for carryover to taxable years beginning on or after January 1,
34 2014, if any, after application of this subdivision, shall be carried
35 over only to the succeeding 10 taxable years if necessary, until the
36 credit is exhausted, as if it were an amount exceeding the "net tax"
37 for the taxable year, as provided in subdivision (g).

38 (i) If the taxpayer is allowed a credit pursuant to this section for
39 qualified wages paid or incurred, only one credit shall be allowed

1 to the taxpayer under this part with respect to any wage consisting
2 in whole or in part of those qualified wages.

3 (j) The qualified taxpayer shall do both of the following:

4 (1) Obtain from the Employment Development Department, as
5 permitted by federal law, the local county or city Job Training
6 Partnership Act administrative entity, the local county GAIN office
7 or social services agency, or the local government administering
8 the manufacturing enhancement area, a certification that provides
9 that a qualified disadvantaged individual meets the eligibility
10 requirements specified in paragraph (5) of subdivision (b). The
11 Employment Development Department may provide preliminary
12 screening and referral to a certifying agency. The Department of
13 Housing and Community Development shall develop regulations
14 governing the issuance of certificates pursuant to subdivision (d)
15 of Section 7086 of the Government Code and shall develop forms
16 for this purpose.

17 (2) Retain a copy of the certification and provide it upon request
18 to the Franchise Tax Board.

19 (k) (1) Except as provided in paragraph (2), this section shall
20 cease to be operative for taxable years beginning on or after January
21 1, 2014, and shall be repealed on December 1, 2019.

22 (2) The section shall continue to apply with respect to qualified
23 employees who are employed by the qualified taxpayer within the
24 manufacturing enhancement area within the 60-month period
25 immediately preceding January 1, 2014, and qualified wages paid
26 or incurred with respect to those qualified employees shall continue
27 to qualify for the credit under this section for taxable years
28 beginning on or after January 1, 2014, in accordance with the
29 provisions of this section, as amended by the act adding this
30 subdivision.

31 SEC. 4. Section 17053.74 of the Revenue and Taxation Code
32 is amended to read:

33 17053.74. (a) There shall be allowed a credit against the “net
34 tax” (as defined in Section 17039) to a taxpayer who employs a
35 qualified employee in an enterprise zone during the taxable year.
36 The credit shall be equal to the sum of each of the following:

37 (1) Fifty percent of qualified wages in the first year of
38 employment.

39 (2) Forty percent of qualified wages in the second year of
40 employment.

1 (3) Thirty percent of qualified wages in the third year of
2 employment.

3 (4) Twenty percent of qualified wages in the fourth year of
4 employment.

5 (5) Ten percent of qualified wages in the fifth year of
6 employment.

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) (i) Except as provided in clause (ii), that portion of wages
10 paid or incurred by the taxpayer during the taxable year to qualified
11 employees that does not exceed 150 percent of the minimum wage.

12 (ii) For up to 1,350 qualified employees who are employed by
13 the taxpayer in the Long Beach Enterprise Zone in aircraft
14 manufacturing activities described in Codes 3721 to 3728,
15 inclusive, and Code 3812 of the Standard Industrial Classification
16 (SIC) Manual published by the United States Office of
17 Management and Budget, 1987 edition, “qualified wages” means
18 that portion of hourly wages that does not exceed 202 percent of
19 the minimum wage.

20 (B) Wages received during the 60-month period beginning with
21 the first day the employee commences employment with the
22 taxpayer. Reemployment in connection with any increase, including
23 a regularly occurring seasonal increase, in the trade or business
24 operations of the taxpayer does not constitute commencement of
25 employment for purposes of this section.

26 (C) Qualified wages do not include any wages paid or incurred
27 by the taxpayer on or after the zone expiration date. However,
28 wages paid or incurred with respect to qualified employees who
29 are employed by the taxpayer within the enterprise zone within
30 the 60-month period prior to the zone expiration date shall continue
31 to qualify for the credit under this section after the zone expiration
32 date, in accordance with all provisions of this section applied as
33 if the enterprise zone designation were still in existence and
34 binding.

35 (2) “Minimum wage” means the wage established by the
36 Industrial Welfare Commission as provided for in Chapter 1
37 (commencing with Section 1171) of Part 4 of Division 2 of the
38 Labor Code.

1 (3) “Zone expiration date” means the date the enterprise zone
2 designation expires, is no longer binding, becomes inoperative, or
3 is repealed.

4 (4) (A) “Qualified employee” means an individual who meets
5 all of the following requirements:

6 (i) At least 90 percent of whose services for the taxpayer during
7 the taxable year are directly related to the conduct of the taxpayer’s
8 trade or business located in an enterprise zone.

9 (ii) Performs at least 50 percent of his or her services for the
10 taxpayer during the taxable year in an enterprise zone.

11 (iii) Is hired by the taxpayer after the date of original designation
12 of the area in which services were performed as an enterprise zone.

13 (iv) Is any of the following:

14 (I) Immediately preceding the qualified employee’s
15 commencement of employment with the taxpayer, was a person
16 eligible for services under the federal Job Training Partnership
17 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
18 or is eligible to receive, subsidized employment, training, or
19 services funded by the federal Job Training Partnership Act, or its
20 successor.

21 (II) Immediately preceding the qualified employee’s
22 commencement of employment with the taxpayer, was a person
23 eligible to be a voluntary or mandatory registrant under the Greater
24 Avenues for Independence Act of 1985 (GAIN) provided for
25 pursuant to Article 3.2 (commencing with Section 11320) of
26 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
27 Code, or its successor.

28 (III) Immediately preceding the qualified employee’s
29 commencement of employment with the taxpayer, was an
30 economically disadvantaged individual 14 years of age or older.

31 (IV) Immediately preceding the qualified employee’s
32 commencement of employment with the taxpayer, was a dislocated
33 worker who meets any of the following:

34 (aa) Has been terminated or laid off or who has received a notice
35 of termination or layoff from employment, is eligible for or has
36 exhausted entitlement to unemployment insurance benefits, and
37 is unlikely to return to his or her previous industry or occupation.

38 (bb) Has been terminated or has received a notice of termination
39 of employment as a result of any permanent closure or any
40 substantial layoff at a plant, facility, or enterprise, including an

1 individual who has not received written notification but whose
2 employer has made a public announcement of the closure or layoff.

3 (cc) Is long-term unemployed and has limited opportunities for
4 employment or reemployment in the same or a similar occupation
5 in the area in which the individual resides, including an individual
6 55 years of age or older who may have substantial barriers to
7 employment by reason of age.

8 (dd) Was self-employed (including farmers and ranchers) and
9 is unemployed as a result of general economic conditions in the
10 community in which he or she resides or because of natural
11 disasters.

12 (ee) Was a civilian employee of the Department of Defense
13 employed at a military installation being closed or realigned under
14 the Defense Base Closure and Realignment Act of 1990.

15 (ff) Was an active member of the armed forces or National
16 Guard as of September 30, 1990, and was either involuntarily
17 separated or separated pursuant to a special benefits program.

18 (gg) Is a seasonal or migrant worker who experiences chronic
19 seasonal unemployment and underemployment in the agriculture
20 industry, aggravated by continual advancements in technology and
21 mechanization.

22 (hh) Has been terminated or laid off, or has received a notice
23 of termination or layoff, as a consequence of compliance with the
24 Clean Air Act.

25 (V) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was a disabled
27 individual who is eligible for or enrolled in, or has completed a
28 state rehabilitation plan or is a service-connected disabled veteran,
29 veteran of the Vietnam era, or veteran who is recently separated
30 from military service.

31 (VI) Immediately preceding the qualified employee's
32 commencement of employment with the taxpayer, was an
33 ex-offender. An individual shall be treated as convicted if he or
34 she was placed on probation by a state court without a finding of
35 guilt.

36 (VII) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a person
38 eligible for or a recipient of any of the following:

39 (aa) Federal Supplemental Security Income benefits.

40 (bb) Aid to Families with Dependent Children.

1 (cc) CalFresh benefits.

2 (dd) State and local general assistance.

3 (VIII) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a member
5 of a federally recognized Indian tribe, band, or other group of
6 Native American descent.

7 (IX) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a resident
9 of a targeted employment area, as defined in Section 7072 of the
10 Government Code.

11 (X) An employee who qualified the taxpayer for the enterprise
12 zone hiring credit under former Section 17053.8 or the program
13 area hiring credit under former Section 17053.11.

14 (XI) Immediately preceding the qualified employee's
15 commencement of employment with the taxpayer, was a member
16 of a targeted group, as defined in Section 51(d) of the Internal
17 Revenue Code, or its successor.

18 (B) Priority for employment shall be provided to an individual
19 who is enrolled in a qualified program under the federal Job
20 Training Partnership Act or the Greater Avenues for Independence
21 Act of 1985 or who is eligible as a member of a targeted group
22 under the Work Opportunity Tax Credit (Section 51 of the Internal
23 Revenue Code), or its successor.

24 (5) "Taxpayer" means a person or entity engaged in a trade or
25 business within an enterprise zone designated pursuant to Chapter
26 12.8 (commencing with Section 7070) of the Government Code.

27 (6) "Seasonal employment" means employment by a taxpayer
28 that has regular and predictable substantial reductions in trade or
29 business operations.

30 (c) The taxpayer shall do both of the following:

31 (1) Obtain from the Employment Development Department, as
32 permitted by federal law, the local county or city Job Training
33 Partnership Act administrative entity, the local county GAIN office
34 or social services agency, or the local government administering
35 the enterprise zone, a certification which provides that a qualified
36 employee meets the eligibility requirements specified in clause
37 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
38 Employment Development Department may provide preliminary
39 screening and referral to a certifying agency. The Employment
40 Development Department shall develop a form for this purpose.

1 The Department of Housing and Community Development shall
2 develop regulations governing the issuance of certificates by local
3 governments pursuant to subdivision (a) of Section 7086 of the
4 Government Code.

5 (2) Retain a copy of the certification and provide it upon request
6 to the Franchise Tax Board.

7 (d) (1) For purposes of this section:

8 (A) All employees of trades or businesses, which are not
9 incorporated, that are under common control shall be treated as
10 employed by a single taxpayer.

11 (B) The credit, if any, allowable by this section with respect to
12 each trade or business shall be determined by reference to its
13 proportionate share of the expense of the qualified wages giving
14 rise to the credit, and shall be allocated in that manner.

15 (C) Principles that apply in the case of controlled groups of
16 corporations, as specified in subdivision (d) of Section 23622.7,
17 shall apply with respect to determining employment.

18 (2) If an employer acquires the major portion of a trade or
19 business of another employer (hereinafter in this paragraph referred
20 to as the “predecessor”) or the major portion of a separate unit of
21 a trade or business of a predecessor, then, for purposes of applying
22 this section (other than subdivision (e)) for any calendar year
23 ending after that acquisition, the employment relationship between
24 a qualified employee and an employer shall not be treated as
25 terminated if the employee continues to be employed in that trade
26 or business.

27 (e) (1) (A) If the employment, other than seasonal employment,
28 of any qualified employee, with respect to whom qualified wages
29 are taken into account under subdivision (a), is terminated by the
30 taxpayer at any time during the first 270 days of that employment
31 (whether or not consecutive) or before the close of the 270th
32 calendar day after the day in which that employee completes 90
33 days of employment with the taxpayer, the tax imposed by this
34 part for the taxable year in which that employment is terminated
35 shall be increased by an amount equal to the credit allowed under
36 subdivision (a) for that taxable year and all prior taxable years
37 attributable to qualified wages paid or incurred with respect to that
38 employee.

39 (B) If the seasonal employment of any qualified employee, with
40 respect to whom qualified wages are taken into account under

1 subdivision (a), is not continued by the taxpayer for a period of
2 270 days of employment during the 60-month period beginning
3 with the day the qualified employee commences seasonal
4 employment with the taxpayer, the tax imposed by this part, for
5 the taxable year that includes the 60th month following the month
6 in which the qualified employee commences seasonal employment
7 with the taxpayer, shall be increased by an amount equal to the
8 credit allowed under subdivision (a) for that taxable year and all
9 prior taxable years attributable to qualified wages paid or incurred
10 with respect to that qualified employee.

11 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
12 any of the following:

13 (i) A termination of employment of a qualified employee who
14 voluntarily leaves the employment of the taxpayer.

15 (ii) A termination of employment of a qualified employee who,
16 before the close of the period referred to in paragraph (1), becomes
17 disabled and unable to perform the services of that employment,
18 unless that disability is removed before the close of that period
19 and the taxpayer fails to offer reemployment to that employee.

20 (iii) A termination of employment of a qualified employee, if
21 it is determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that employee.

24 (iv) A termination of employment of a qualified employee due
25 to a substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of a qualified employee, if
28 that employee is replaced by other qualified employees so as to
29 create a net increase in both the number of employees and the
30 hours of employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 employee who voluntarily fails to return to the seasonal
35 employment of the taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 employee who, before the close of the period referred to in
38 subparagraph (B) of paragraph (1), becomes disabled and unable
39 to perform the services of that seasonal employment, unless that
40 disability is removed before the close of that period and the

1 taxpayer fails to offer seasonal employment to that qualified
 2 employee.

3 (iii) A failure to continue the seasonal employment of a qualified
 4 employee, if it is determined that the failure to continue the
 5 seasonal employment was due to the misconduct (as defined in
 6 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
 7 Code of Regulations) of that qualified employee.

8 (iv) A failure to continue seasonal employment of a qualified
 9 employee due to a substantial reduction in the regular seasonal
 10 trade or business operations of the taxpayer.

11 (v) A failure to continue the seasonal employment of a qualified
 12 employee, if that qualified employee is replaced by other qualified
 13 employees so as to create a net increase in both the number of
 14 seasonal employees and the hours of seasonal employment.

15 (C) For purposes of paragraph (1), the employment relationship
 16 between the taxpayer and a qualified employee shall not be treated
 17 as terminated by reason of a mere change in the form of conducting
 18 the trade or business of the taxpayer, if the qualified employee
 19 continues to be employed in that trade or business and the taxpayer
 20 retains a substantial interest in that trade or business.

21 (3) Any increase in tax under paragraph (1) shall not be treated
 22 as tax imposed by this part for purposes of determining the amount
 23 of any credit allowable under this part.

24 (f) In the case of an estate or trust, both of the following apply:

25 (1) The qualified wages for any taxable year shall be apportioned
 26 between the estate or trust and the beneficiaries on the basis of the
 27 income of the estate or trust allocable to each.

28 (2) Any beneficiary to whom any qualified wages have been
 29 apportioned under paragraph (1) shall be treated, for purposes of
 30 this part, as the employer with respect to those wages.

31 (g) For purposes of this section, “enterprise zone” means an
 32 area designated as an enterprise zone pursuant to Chapter 12.8
 33 (commencing with Section 7070) of Division 7 of Title 1 of the
 34 Government Code.

35 (h) The credit allowable under this section shall be reduced by
 36 the credit allowed under Sections 17053.10, 17053.17, and
 37 17053.46 claimed for the same employee. The credit shall also be
 38 reduced by the federal credit allowed under Section 51 of the
 39 Internal Revenue Code, as amended by the Economic Stabilization
 40 Act of 2008 (Public Law 110-343).

1 In addition, any deduction otherwise allowed under this part for
2 the wages or salaries paid or incurred by the taxpayer upon which
3 the credit is based shall be reduced by the amount of the credit,
4 prior to any reduction required by subdivision (i) or (j).

5 (i) In the case where the credit otherwise allowed under this
6 section exceeds the “net tax” for the taxable year, that portion of
7 the credit that exceeds the “net tax” may be carried over and added
8 to the credit, if any, in the succeeding 10 taxable years, if necessary,
9 until the credit is exhausted. The credit shall be applied first to the
10 earliest taxable years possible.

11 (j) (1) The amount of the credit otherwise allowed under this
12 section and Section 17053.70, including any credit carryover from
13 prior years, that may reduce the “net tax” for the taxable year shall
14 not exceed the amount of tax which would be imposed on the
15 taxpayer’s business income attributable to the enterprise zone
16 determined as if that attributable income represented all of the
17 income of the taxpayer subject to tax under this part.

18 (2) Attributable income shall be that portion of the taxpayer’s
19 California source business income that is apportioned to the
20 enterprise zone. For that purpose, the taxpayer’s business income
21 attributable to sources in this state first shall be determined in
22 accordance with Chapter 17 (commencing with Section 25101) of
23 Part 11. That business income shall be further apportioned to the
24 enterprise zone in accordance with Article 2 (commencing with
25 Section 25120) of Chapter 17 of Part 11, modified for purposes
26 of this section in accordance with paragraph (3).

27 (3) Business income shall be apportioned to the enterprise zone
28 by multiplying the total California business income of the taxpayer
29 by a fraction, the numerator of which is the property factor plus
30 the payroll factor, and the denominator of which is two. For
31 purposes of this paragraph:

32 (A) The property factor is a fraction, the numerator of which is
33 the average value of the taxpayer’s real and tangible personal
34 property owned or rented and used in the enterprise zone during
35 the taxable year, and the denominator of which is the average value
36 of all the taxpayer’s real and tangible personal property owned or
37 rented and used in this state during the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is
39 the total amount paid by the taxpayer in the enterprise zone during
40 the taxable year for compensation, and the denominator of which

1 is the total compensation paid by the taxpayer in this state during
2 the taxable year.

3 (4) The portion of any credit remaining, if any, after application
4 of this subdivision, shall be carried over to succeeding taxable
5 years, if necessary, until the credit is exhausted, as if it were an
6 amount exceeding the “net tax” for the taxable year, as provided
7 in subdivision (i). However, the portion of any credit remaining
8 for carryover to taxable years beginning on or after January 1,
9 2014, if any, after application of this subdivision, shall be carried
10 over only to the succeeding 10 taxable years if necessary, until the
11 credit is exhausted, as if it were an amount exceeding the “net tax”
12 for the taxable year, as provided in subdivision (i).

13 (k) The changes made to this section by the act adding this
14 subdivision shall apply to taxable years beginning on or after
15 January 1, 1997.

16 (l) (1) Except as provided in paragraph (2), this section shall
17 cease to be operative on January 1, 2014, and shall be repealed on
18 December 1, 2019. A credit shall not be allowed under this section
19 with respect to an employee who first commences employment
20 with a taxpayer on or after January 1, 2014.

21 (2) This section shall continue to apply with respect to qualified
22 employees who are employed by the taxpayer within the enterprise
23 zone within the 60-month period immediately preceding January
24 1, 2014, and qualified wages paid or incurred with respect to those
25 qualified employees shall continue to qualify for the credit under
26 this section for taxable years beginning on or after January 1, 2014,
27 in accordance with this section, as amended by the act adding this
28 subdivision.

29 SEC. 5. Section 17088 of the Revenue and Taxation Code is
30 amended to read:

31 17088. (a) Subchapter M of Chapter 1 of Subtitle A of the
32 Internal Revenue Code, relating to regulated investment companies
33 and real estate investment trusts, shall apply, except as otherwise
34 provided.

35 (b) Section 17145 shall apply in lieu of Section 852(b)(5) of the
36 Internal Revenue Code, relating to exempt-interest dividends.

37 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,
38 relating to treatment by shareholders of undistributed capital gains,
39 shall not apply.

1 (2) Section 852(g)(1)(A) of the Internal Revenue Code is
2 modified by substituting the phrase “subdivision (a) of Section
3 17145” for the phrase “the first sentence of subsection (b)(5)”
4 contained therein.

5 SEC. 6. Section 17131.7 of the Revenue and Taxation Code
6 is repealed.

7 SEC. 7. Section 17131.12 of the Revenue and Taxation Code
8 is repealed.

9 SEC. 8. Section 17131.14 of the Revenue and Taxation Code
10 is repealed.

11 SEC. 9. Section 17134.1 of the Revenue and Taxation Code
12 is repealed.

13 SEC. 10. Section 17144 of the Revenue and Taxation Code is
14 amended to read:

15 17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code,
16 relating to general business credit, is modified by substituting “this
17 part” in lieu of “Section 38 (relating to general business credit).”

18 (b) Section 108(b)(2)(G) of the Internal Revenue Code, relating
19 to foreign tax credit carryovers, shall not apply.

20 (c) Section 108(b)(3)(B) of the Internal Revenue Code, relating
21 to credit carryover reduction, is modified by substituting “11.1
22 cents” in lieu of “33 1/3 cents” in each place in which it appears. In
23 the case where more than one credit is allowable under this part,
24 the credits shall be reduced on a pro rata basis.

25 (d) Section 108(g)(3)(B) of the Internal Revenue Code, relating
26 to adjusted tax attributes, is modified by substituting “(\$9)” in lieu
27 of “(\$3).”

28 (e) (1) If a taxpayer makes an election for federal income tax
29 purposes under Section 108(c) of the Internal Revenue Code,
30 relating to treatment of discharge of qualified real property business
31 indebtedness, a separate election shall not be allowed under
32 paragraph (3) of subdivision (e) of Section 17024.5 and the federal
33 election shall be binding for purposes of this part.

34 (2) If a taxpayer has not made an election for federal income
35 tax purposes under Section 108(c) of the Internal Revenue Code,
36 relating to treatment of discharge of qualified real property business
37 indebtedness, then the taxpayer shall not be allowed to make that
38 election for purposes of this part.

39 (f) Section 108(i) of the Internal Revenue Code, relating to
40 deferral and ratable inclusion of income arising from business

1 indebtedness discharged by the reacquisition of a debt instrument,
2 shall not apply.

3 SEC. 11. Section 17201.1 of the Revenue and Taxation Code
4 is repealed.

5 SEC. 12. Section 17215 of the Revenue and Taxation Code is
6 amended to read:

7 17215. (a) Section 220(a) of the Internal Revenue Code,
8 relating to deduction allowed, is modified to provide that the
9 amount allowed as a deduction shall be an amount equal to the
10 amount allowed to that individual as a deduction under Section
11 220 of the Internal Revenue Code, relating to medical savings
12 accounts, on the federal income tax return filed for the same taxable
13 year by that individual.

14 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
15 additional tax on distributions not used for qualified medical
16 expenses, is modified by substituting “12.5 percent” in lieu of “20
17 percent.”

18 (c) The amendments made to this section by the act adding this
19 subdivision shall apply to disbursements made during taxable years
20 beginning on or after January 1, 2016.

21 SEC. 13. Section 17240 is added to the Revenue and Taxation
22 Code, to read:

23 17240. The fee imposed by Section 9008 of the Patient
24 Protection and Affordable Care Act (Public Law 111-148), shall
25 be considered a tax described in Section 275(a)(6) of the Internal
26 Revenue Code.

27 SEC. 14. Section 17241 is added to the Revenue and Taxation
28 Code, to read:

29 17241. (a) Section 213(a) of the Internal Revenue Code,
30 relating to allowance of deduction, is modified by substituting “7.5
31 percent” for “10 percent.”

32 (b) Section 213(f) of the Internal Revenue Code, relating to
33 special rule for 2013, 2014, 2015, and 2016, shall not apply.

34 SEC. 15. Section 17280.1 of the Revenue and Taxation Code
35 is repealed.

36 SEC. 16. Section 17322.1 of the Revenue and Taxation Code
37 is repealed.

38 SEC. 17. Section 17323 is added to the Revenue and Taxation
39 Code, to read:

1 17323. Section 382(n) of the Internal Revenue Code, relating
2 to special rule for certain ownership changes, shall not apply.

3 SEC. 18. Section 18155 of the Revenue and Taxation Code is
4 amended to read:

5 18155. A deduction shall not be allowed for capital loss
6 carrybacks provided by Section 1212 of the Internal Revenue Code,
7 relating to capital loss carrybacks and carryovers.

8 SEC. 19. Section 19131.5 is added to the Revenue and Taxation
9 Code, to read:

10 19131.5. (a) Section 6164 of the Internal Revenue Code,
11 relating to extension of time for payment of taxes by corporations
12 expecting carrybacks, shall apply, except as otherwise provided.

13 (b) (1) Section 6164 of the Internal Revenue Code is modified
14 by substituting the phrase “Secretary or the Franchise Tax Board”
15 for the word “Secretary” in each place it appears.

16 (2) Section 6164(a) of the Internal Revenue Code is modified
17 by substituting the phrase “Part 11 (commencing with Section
18 23001)” in lieu of the phrase “subtitle A.”

19 (3) Section 6164(b) of the Internal Revenue Code, relating to
20 contents of statement, is modified by substituting the phrase
21 “Section 24416.20” in lieu of the phrase “Section 172(b).”

22 (4) Section 6164(d)(2) of the Internal Revenue Code shall not
23 apply.

24 (5) Section 6164(h) of the Internal Revenue Code, relating to
25 jeopardy, is modified as follows:

26 (A) By substituting the phrase “he or the Franchise Tax Board”
27 for the word “he” in each place it appears.

28 (B) By substituting the phrase “him or the Franchise Tax Board”
29 for the word “him” in each place it appears.

30 (6) Section 6164(i) of the Internal Revenue Code, relating to
31 consolidated returns, is modified by substituting the phrase
32 “combined report” in lieu of the phrase “consolidated return” in
33 each place it appears.

34 SEC. 20. Section 19141.5 of the Revenue and Taxation Code
35 is amended to read:

36 19141.5. (a) (1) Section 6038A of the Internal Revenue Code,
37 relating to information with respect to certain foreign-owned
38 corporations, shall apply.

39 (2) A penalty shall be imposed under this part for failure to
40 furnish information or maintain records and that penalty shall be

1 determined in accordance with Section 6038A of the Internal
2 Revenue Code.

3 (3) Section 11314 of Public Law 101-508, relating to application
4 of amendments made by Section 7403 of the Revenue
5 Reconciliation Act of 1989 to taxable years beginning on or before
6 July 10, 1989, shall apply.

7 (4) Section 6038A(e) of the Internal Revenue Code, relating to
8 enforcement of requests for certain records, is modified as follows:

9 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
10 Revenue Code shall instead refer to Section 19504.

11 (B) Each reference to “summons” shall instead refer to
12 “subpoena duces tecum.”

13 (C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall
14 refer to “superior courts of the State of California for the Counties
15 of Los Angeles, Sacramento, and San Diego, and for the City and
16 County of San Francisco,” instead of “United States district court
17 for the district in which the person (to whom the summons is
18 issued) resides or is found.”

19 (b) In the case of a corporation, each of the following shall
20 apply:

21 (1) Section 6038B of the Internal Revenue Code, relating to
22 notice of certain transfers to foreign persons, shall apply, except
23 as otherwise provided.

24 (2) The information required to be filed with the Franchise Tax
25 Board under this subdivision shall be a copy of the information
26 required to be filed with the Internal Revenue Service.

27 (3) (A) A penalty shall be imposed under this part for failure
28 to furnish information and that penalty shall be determined in
29 accordance with Section 6038B of the Internal Revenue Code,
30 except as otherwise provided.

31 (B) Subparagraph (A) shall not apply to any transfer described
32 in Section 6038B(a)(1)(B) of the Internal Revenue Code.

33 (c) (1) Section 6038C of the Internal Revenue Code, relating
34 to information with respect to foreign corporations engaged in
35 United States business, shall apply.

36 (2) A penalty shall be imposed under this part for failure to
37 furnish information or maintain records and that penalty shall be
38 determined in accordance with Section 6038C of the Internal
39 Revenue Code.

1 (3) Section 6038C(d) of the Internal Revenue Code, relating to
2 enforcement of requests for certain records, is modified as follows:

3 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
4 Revenue Code shall instead refer to Section 19504.

5 (B) Each reference to “summons” shall instead refer to
6 “subpoena duces tecum.”

7 (d) (1) Section 6038D of the Internal Revenue Code, relating
8 to information with respect to foreign financial assets, shall apply.

9 (2) A penalty shall be imposed under this part for failure to
10 furnish information and that penalty shall be determined in
11 accordance with Section 6038D of the Internal Revenue Code.

12 (e) For purposes of this part, the information required to be filed
13 with the Franchise Tax Board pursuant to this section shall be a
14 copy of the information filed with the Internal Revenue Service.

15 (f) For purposes of this section, each of the following shall
16 apply:

17 (1) Section 7701(a)(4) of the Internal Revenue Code, relating
18 to the term “domestic,” shall apply.

19 (2) Section 7701(a)(5) of the Internal Revenue Code, relating
20 to the term “foreign,” shall apply.

21 (3) Section 7701(a)(30) of the Internal Revenue Code, relating
22 to the term “United States person,” shall apply. However, the term
23 “United States person” shall not include any corporation that is
24 not subject to the tax imposed under Chapter 2 (commencing with
25 Section 23101), Chapter 2.5 (commencing with Section 23400),
26 or Chapter 3 (commencing with Section 23501), of Part 11.

27 (g) The amendments made to this section by the act adding this
28 subdivision shall apply to taxable years beginning on or after
29 January 1, 2016.

30 SEC. 21. Section 19164 of the Revenue and Taxation Code is
31 amended to read:

32 19164. (a) (1) (A) An accuracy-related penalty shall be
33 imposed under this part and shall be determined in accordance
34 with Section 6662 of the Internal Revenue Code, relating to
35 imposition of accuracy-related penalty on underpayments, except
36 as otherwise provided.

37 (B) (i) Except for understatements relating to reportable
38 transactions to which Section 19164.5 applies, in the case of any
39 proposed deficiency assessment issued after the last date of the
40 amnesty period specified in Chapter 9.1 (commencing with Section

1 19730) for any taxable year beginning prior to January 1, 2003,
2 the penalty specified in Section 6662(a) of the Internal Revenue
3 Code shall be computed by substituting “40 percent” for “20
4 percent.”

5 (ii) Clause (i) shall not apply to any taxable year of a taxpayer
6 beginning prior to January 1, 2003, if, as of the start date of the
7 amnesty program period specified in Section 19731, the taxpayer
8 is then under audit by the Franchise Tax Board, or the taxpayer
9 has filed a protest under Section 19041, or the taxpayer has filed
10 an appeal under Section 19045, or the taxpayer is engaged in
11 settlement negotiations under Section 19442, or the taxpayer has
12 a pending judicial proceeding in any court of this state or in any
13 federal court relating to the tax liability of the taxpayer for that
14 taxable year.

15 (2) With respect to corporations, this subdivision shall apply to
16 all of the following:

17 (A) All taxable years beginning on or after January 1, 1990.

18 (B) Any other taxable year for which an assessment is made
19 after July 16, 1991.

20 (C) For purposes of this section, references in Section 6662(e)
21 of the Internal Revenue Code and the regulations thereunder,
22 relating to treatment of an affiliated group that files a consolidated
23 federal return, are modified to apply to those entities required to
24 be included in a combined report under Section 25101 or 25110.
25 For these purposes, entities included in a combined report pursuant
26 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall
27 be considered only to the extent required to be included in the
28 combined report.

29 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is
30 modified to provide that in the case of a corporation, other than
31 an “S” corporation, there is a substantial understatement of tax for
32 any taxable year if the amount of the understatement for the taxable
33 year exceeds the lesser of:

34 (A) Ten percent of the tax required to be shown on the return
35 for the taxable year (or, if greater, two thousand five hundred
36 dollars (\$2,500)).

37 (B) Five million dollars (\$5,000,000).

38 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is
39 modified to additionally provide that the excess determined under
40 Section 6662(d)(2)(A) of the Internal Revenue Code shall be

1 determined without regard to items to which Section 19164.5
2 applies and without regard to items with respect to which a penalty
3 is imposed by Section 19774.

4 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the
5 Internal Revenue Code shall apply to returns filed on or after
6 January 1, 2010.

7 (b) For purposes of Section 6662(d) of the Internal Revenue
8 Code, Section 6664 of the Internal Revenue Code, Section
9 6694(a)(1) of the Internal Revenue Code, and this part, the
10 Franchise Tax Board may prescribe a list of positions for which
11 the Franchise Tax Board believes there is not substantial authority
12 or there is no reasonable belief that the tax treatment is more likely
13 than not the proper tax treatment. That list (and any revisions
14 thereof) shall be published through the use of Franchise Tax Board
15 Notices or other published positions. In addition, the “listed
16 transactions” identified and published pursuant to the preceding
17 sentence shall be published on the Web site of the Franchise Tax
18 Board.

19 (c) A fraud penalty shall be imposed under this part and shall
20 be determined in accordance with Section 6663 of the Internal
21 Revenue Code, relating to imposition of fraud penalty, except as
22 otherwise provided.

23 (d) (1) Section 6664 of the Internal Revenue Code, relating to
24 definitions and special rules, shall apply, except as otherwise
25 provided.

26 (2) Section 6664(c)(3) of the Internal Revenue Code shall apply
27 to returns filed on or after January 1, 2010.

28 (3) Section 6664(c)(4) of the Internal Revenue Code shall apply
29 to appraisals prepared with respect to returns or submissions filed
30 on or after January 1, 2010.

31 (e) Except for purposes of subdivision (e) of Section 19774,
32 Section 6662(b)(6) of the Internal Revenue Code shall not apply.

33 (f) Except for purposes of subdivision (e) of Section 19774,
34 Section 6662(i) of the Internal Revenue Code, relating to increase
35 in penalty in case of nondisclosed noneconomic substance
36 transactions, shall not apply.

37 (g) Section 6665 of the Internal Revenue Code, relating to
38 applicable rules, shall apply, except as otherwise provided.

1 (h) The amendments made to this section by Chapter 14 of the
2 Statutes of 2011 shall apply to notices mailed on or after January
3 1, 2012.

4 SEC. 22. Section 19167 of the Revenue and Taxation Code is
5 amended to read:

6 19167. A penalty shall be imposed under this section for any
7 of the following:

8 (a) In accordance with Section 6695(a) of the Internal Revenue
9 Code, relating to failure to furnish a copy to taxpayer, as required
10 by Section 18625, except as otherwise provided.

11 (b) In accordance with Section 6695(c) of the Internal Revenue
12 Code, relating to failure to furnish identifying number, as required
13 by Section 18624, except as otherwise provided.

14 (c) In accordance with Section 6695(d) of the Internal Revenue
15 Code, relating to failure to retain copy or list, as required by Section
16 18625 or for failure to retain an electronic filing declaration, as
17 required by Section 18621.5, except as otherwise provided.

18 (d) Section 6695(h) of the Internal Revenue Code, relating to
19 adjustment for inflation, shall not apply.

20 (e) Failure to register as a tax preparer with the California Tax
21 Education Council, as required by Section 22253 of the Business
22 and Professions Code, unless it is shown that the failure was due
23 to reasonable cause and not due to willful neglect.

24 (1) The amount of the penalty under this subdivision for the
25 first failure to register is two thousand five hundred dollars
26 (\$2,500). This penalty shall be waived if proof of registration is
27 provided to the Franchise Tax Board within 90 days from the date
28 notice of the penalty is mailed to the tax preparer.

29 (2) The amount of the penalty under this subdivision for a failure
30 to register, other than the first failure to register, is five thousand
31 dollars (\$5,000).

32 (f) The Franchise Tax Board shall not impose the penalties
33 authorized by subdivision (e) until either one of the following has
34 occurred:

35 (1) Commencing January 1, 2006, and continuing each year
36 thereafter, there is an appropriation in the Franchise Tax Board's
37 annual budget to fund the costs associated with the penalty
38 authorized by subdivision (e).

39 (2) (A) An agreement has been executed between the California
40 Tax Education Council and the Franchise Tax Board that provides

1 that an amount equal to all first year costs associated with the
2 penalty authorized by subdivision (e) shall be received by the
3 Franchise Tax Board. For purposes of this subparagraph, first year
4 costs include, but are not limited to, costs associated with the
5 development of processes or systems changes, if necessary, and
6 labor.

7 (B) An agreement has been executed between the California
8 Tax Education Council and the Franchise Tax Board that provides
9 that the annual costs incurred by the Franchise Tax Board
10 associated with the penalty authorized by subdivision (e) shall be
11 reimbursed by the California Tax Education Council to the
12 Franchise Tax Board.

13 (C) Pursuant to the agreement described in subparagraph (A),
14 the Franchise Tax Board has received an amount equal to the first
15 year costs described in that subparagraph.

16 SEC. 23. Section 19183 of the Revenue and Taxation Code is
17 amended to read:

18 19183. (a) (1) A penalty shall be imposed for failure to file
19 correct information returns, as required by this part, and that
20 penalty shall be determined in accordance with Section 6721 of
21 the Internal Revenue Code, relating to failure to file correct
22 information returns.

23 (2) Section 6721(e) of the Internal Revenue Code, relating to
24 penalty in case of intentional disregard, is modified to the extent
25 that the reference to Section 6041A(b) of the Internal Revenue
26 Code, relating to direct sales of \$5,000 or more, shall not apply.

27 (3) Section 6721(f)(1) of the Internal Revenue Code is modified
28 to substitute the phrase “For each fifth calendar year beginning
29 after 2014” for the phrase “In the case of any failure relating to a
30 return required to be filed in a calendar year beginning after 2014.”

31 (b) (1) A penalty shall be imposed for failure to furnish correct
32 payee statements as required by this part, and that penalty shall be
33 determined in accordance with Section 6722 of the Internal
34 Revenue Code, relating to failure to furnish correct payee
35 statements.

36 (2) Section 6722(c) of the Internal Revenue Code, relating to
37 exception for de minimus failures, is modified to the extent that
38 the references to Sections 6041A(b) and 6041A(e) of the Internal
39 Revenue Code, relating to direct sales of \$5,000 or more, and

1 statements to be furnished to persons with respect to whom
2 information is required to be furnished, shall not apply.

3 (3) Section 6722(f)(1) of the Internal Revenue Code is modified
4 to substitute the phrase “For each fifth calendar year beginning
5 after 2014” for the phrase “In the case of any failure relating to a
6 return required to be filed in a calendar year beginning after 2014.”

7 (c) A penalty shall be imposed for failure to comply with other
8 information reporting requirements under this part, and that penalty
9 shall be determined in accordance with Section 6723 of the Internal
10 Revenue Code, relating to failure to comply with other information
11 reporting requirements.

12 (d) (1) The provisions of Section 6724 of the Internal Revenue
13 Code, relating to waiver; definitions, and special rules, shall apply,
14 except as otherwise provided.

15 (2) Section 6724(d)(1) of the Internal Revenue Code, relating
16 to information return, is modified as follows:

17 (A) The following references are substituted:

18 (i) Subdivision (a) of Section 18640, in lieu of Section
19 6044(a)(1) of the Internal Revenue Code.

20 (ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a)
21 of the Internal Revenue Code, relating to reports.

22 (B) References to Sections 4101(d), 6041(b), 6041A(b), 6045(d),
23 6051(d), and 6053(c)(1) of the Internal Revenue Code shall not
24 apply.

25 (C) The term “information return” shall also include both of the
26 following:

27 (i) The return required by paragraph (1) of subdivision (i) of
28 Section 18662.

29 (ii) The return required by subdivision (a) of Section 18631.7.

30 (3) Section 6724(d)(2) of the Internal Revenue Code, relating
31 to payee statement, is modified as follows:

32 (A) The following references are substituted:

33 (i) Subdivision (b) of Section 18640, in lieu of Section 6044(e)
34 of the Internal Revenue Code, relating to statements to be furnished
35 to persons with respect to whom information is required.

36 (ii) Subdivision (b) of Section 18644, in lieu of Section
37 6050A(b) of the Internal Revenue Code, relating to written
38 statement.

1 (B) References to Sections 6031(b), 6037(b), 6041A(e), 6045(d),
2 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code shall
3 not apply.

4 (C) The term “payee statement” shall also include the statement
5 required by paragraph (2) of subdivision (i) of Section 18662.

6 (e) In the case of each failure to provide a written explanation
7 as required by Section 402(f) of the Internal Revenue Code, relating
8 to written explanation to recipients of distributions eligible for
9 rollover treatment, at the time prescribed therefor, unless it is
10 shown that the failure is due to reasonable cause and not to willful
11 neglect, there shall be paid, on notice and demand of the Franchise
12 Tax Board and in the same manner as tax, by the person failing to
13 provide that written explanation, an amount equal to ten dollars
14 (\$10) for each failure, but the total amount imposed on that person
15 for all those failures during any calendar year shall not exceed five
16 thousand dollars (\$5,000).

17 (f) Any penalty imposed by this part shall be paid on notice and
18 demand by the Franchise Tax Board and in the same manner as
19 tax.

20 (g) The amendments made to this section by the act adding this
21 subdivision shall apply to information returns required to be filed
22 on or after January 1, 2016.

23 SEC. 24. Section 19772 of the Revenue and Taxation Code is
24 amended to read:

25 19772. (a) Section 6707A of the Internal Revenue Code,
26 relating to penalty for failure to include reportable transactions
27 information with a return, shall apply, except as otherwise
28 provided.

29 (b) (1) Section 6707A(b)(1) of the Internal Revenue Code
30 relating to amount of penalty is modified by substituting the phrase
31 “or which would have resulted from such transaction if such
32 transaction were respected for state tax purposes” for the phrase
33 “or which would have resulted from such transaction if such
34 transaction were respected for Federal tax purposes.”

35 (2) The penalty amounts in Section 6707A(b)(2)(A) of the
36 Internal Revenue Code are modified by substituting “\$30,000
37 (\$15,000” for “\$200,000 (\$100,000.”

38 (3) The penalty amounts in Section 6707A(b)(2)(B) of the
39 Internal Revenue Code are modified by substituting “\$15,000
40 (\$5,000” for “\$50,000 (\$10,000.”

1 (4) The penalty amounts in Section 6707A(b)(3) of the Internal
2 Revenue Code relating to minimum penalty are modified by
3 substituting “\$2,500 (\$1,250” for “\$10,000 (\$5,000.”

4 (c) (1) Section 6707A(c)(1) of the Internal Revenue Code
5 relating to reportable transaction is modified to include reportable
6 transactions within the meaning of paragraph (3) of subdivision
7 (a) of Section 18407.

8 (2) Section 6707A(c)(2) of the Internal Revenue Code relating
9 to listed transaction is modified to include listed transactions within
10 the meaning of paragraph (4) of subdivision (a) of Section 18407.

11 (d) The penalty under this section only applies to taxpayers with
12 taxable income greater than two hundred thousand dollars
13 (\$200,000).

14 (e) Section 6707A(e) of the Internal Revenue Code, relating to
15 a penalty reported to the Securities and Exchange Commission,
16 shall not apply.

17 (f) Section 6707A(d) of the Internal Revenue Code, relating to
18 authority to rescind penalty, shall not apply, and in lieu thereof,
19 the following shall apply:

20 (1) The Chief Counsel of the Franchise Tax Board may rescind
21 all or any portion of any penalty imposed by this section with
22 respect to any violation if all of the following apply:

23 (A) The violation is with respect to a reportable transaction
24 other than a listed transaction.

25 (B) The person on whom the penalty is imposed has a history
26 of complying with the requirements of this part and Part 10
27 (commencing with Section 17001) or Part 11 (commencing with
28 Section 23001).

29 (C) It is shown that the violation is due to an unintentional
30 mistake of fact.

31 (D) Imposing the penalty would be against equity and good
32 conscience.

33 (E) Rescinding the penalty would promote compliance with the
34 requirements of this part and Part 10 (commencing with Section
35 17001) or Part 11 (commencing with Section 23001) and effective
36 tax administration.

37 (2) The exercise of authority under paragraph (1) shall be at the
38 sole discretion of the Chief Counsel of the Franchise Tax Board
39 and may not be delegated.

1 (3) Notwithstanding any other law or rule of law, any
2 determination under this subdivision may not be reviewed in any
3 administrative or judicial proceeding.

4 (g) Article 3 (commencing with Section 19031) of Chapter 4
5 (relating to deficiency assessments) shall not apply with respect
6 to the assessment or collection of any penalty imposed under this
7 section.

8 (h) The penalty imposed by this section is in addition to any
9 penalty imposed under Part 10 (commencing with Section 17001),
10 Part 11 (commencing with Section 23001), or this part.

11 (i) The amendments made to this section by the act adding this
12 subdivision shall apply to penalties assessed on or after January
13 1, 2016.

14 SEC. 25. Section 23622.7 of the Revenue and Taxation Code
15 is amended to read:

16 23622.7. (a) There shall be allowed a credit against the “tax”
17 (as defined by Section 23036) to a taxpayer who employs a
18 qualified employee in an enterprise zone during the taxable year.
19 The credit shall be equal to the sum of each of the following:

20 (1) Fifty percent of qualified wages in the first year of
21 employment.

22 (2) Forty percent of qualified wages in the second year of
23 employment.

24 (3) Thirty percent of qualified wages in the third year of
25 employment.

26 (4) Twenty percent of qualified wages in the fourth year of
27 employment.

28 (5) Ten percent of qualified wages in the fifth year of
29 employment.

30 (b) For purposes of this section:

31 (1) “Qualified wages” means:

32 (A) (i) Except as provided in clause (ii), that portion of wages
33 paid or incurred by the taxpayer during the taxable year to qualified
34 employees that does not exceed 150 percent of the minimum wage.

35 (ii) For up to 1,350 qualified employees who are employed by
36 the taxpayer in the Long Beach Enterprise Zone in aircraft
37 manufacturing activities described in Codes 3721 to 3728,
38 inclusive, and Code 3812 of the Standard Industrial Classification
39 (SIC) Manual published by the United States Office of
40 Management and Budget, 1987 edition, “qualified wages” means

1 that portion of hourly wages that does not exceed 202 percent of
 2 the minimum wage.

3 (B) Wages received during the 60-month period beginning with
 4 the first day the employee commences employment with the
 5 taxpayer. Reemployment in connection with any increase, including
 6 a regularly occurring seasonal increase, in the trade or business
 7 operations of the taxpayer does not constitute commencement of
 8 employment for purposes of this section.

9 (C) Qualified wages do not include any wages paid or incurred
 10 by the taxpayer on or after the zone expiration date. However,
 11 wages paid or incurred with respect to qualified employees who
 12 are employed by the taxpayer within the enterprise zone within
 13 the 60-month period prior to the zone expiration date shall continue
 14 to qualify for the credit under this section after the zone expiration
 15 date, in accordance with all provisions of this section applied as
 16 if the enterprise zone designation were still in existence and
 17 binding.

18 (2) “Minimum wage” means the wage established by the
 19 Industrial Welfare Commission as provided for in Chapter 1
 20 (commencing with Section 1171) of Part 4 of Division 2 of the
 21 Labor Code.

22 (3) “Zone expiration date” means the date the enterprise zone
 23 designation expires, is no longer binding, becomes inoperative, or
 24 is repealed.

25 (4) (A) “Qualified employee” means an individual who meets
 26 all of the following requirements:

27 (i) At least 90 percent of whose services for the taxpayer during
 28 the taxable year are directly related to the conduct of the taxpayer’s
 29 trade or business located in an enterprise zone.

30 (ii) Performs at least 50 percent of his or her services for the
 31 taxpayer during the taxable year in an enterprise zone.

32 (iii) Is hired by the taxpayer after the date of original designation
 33 of the area in which services were performed as an enterprise zone.

34 (iv) Is any of the following:

35 (I) Immediately preceding the qualified employee’s
 36 commencement of employment with the taxpayer, was a person
 37 eligible for services under the federal Job Training Partnership
 38 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
 39 or is eligible to receive, subsidized employment, training, or

1 services funded by the federal Job Training Partnership Act, or its
2 successor.

3 (II) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a person
5 eligible to be a voluntary or mandatory registrant under the Greater
6 Avenues for Independence Act of 1985 (GAIN) provided for
7 pursuant to Article 3.2 (commencing with Section 11320) of
8 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
9 Code, or its successor.

10 (III) Immediately preceding the qualified employee's
11 commencement of employment with the taxpayer, was an
12 economically disadvantaged individual 14 years of age or older.

13 (IV) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a dislocated
15 worker who meets any of the following:

16 (aa) Has been terminated or laid off or who has received a notice
17 of termination or layoff from employment, is eligible for or has
18 exhausted entitlement to unemployment insurance benefits, and
19 is unlikely to return to his or her previous industry or occupation.

20 (bb) Has been terminated or has received a notice of termination
21 of employment as a result of any permanent closure or any
22 substantial layoff at a plant, facility, or enterprise, including an
23 individual who has not received written notification but whose
24 employer has made a public announcement of the closure or layoff.

25 (cc) Is long-term unemployed and has limited opportunities for
26 employment or reemployment in the same or a similar occupation
27 in the area in which the individual resides, including an individual
28 55 years of age or older who may have substantial barriers to
29 employment by reason of age.

30 (dd) Was self-employed (including farmers and ranchers) and
31 is unemployed as a result of general economic conditions in the
32 community in which he or she resides or because of natural
33 disasters.

34 (ee) Was a civilian employee of the Department of Defense
35 employed at a military installation being closed or realigned under
36 the Defense Base Closure and Realignment Act of 1990.

37 (ff) Was an active member of the armed forces or National
38 Guard as of September 30, 1990, and was either involuntarily
39 separated or separated pursuant to a special benefits program.

1 (gg) Is a seasonal or migrant worker who experiences chronic
2 seasonal unemployment and underemployment in the agriculture
3 industry, aggravated by continual advancements in technology and
4 mechanization.

5 (hh) Has been terminated or laid off, or has received a notice
6 of termination or layoff, as a consequence of compliance with the
7 Clean Air Act.

8 (V) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a disabled
10 individual who is eligible for or enrolled in, or has completed a
11 state rehabilitation plan or is a service-connected disabled veteran,
12 veteran of the Vietnam era, or veteran who is recently separated
13 from military service.

14 (VI) Immediately preceding the qualified employee's
15 commencement of employment with the taxpayer, was an
16 ex-offender. An individual shall be treated as convicted if he or
17 she was placed on probation by a state court without a finding of
18 guilt.

19 (VII) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was a person
21 eligible for or a recipient of any of the following:

22 (aa) Federal Supplemental Security Income benefits.

23 (bb) Aid to Families with Dependent Children.

24 (cc) CalFresh benefits.

25 (dd) State and local general assistance.

26 (VIII) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a member
28 of a federally recognized Indian tribe, band, or other group of
29 Native American descent.

30 (IX) Immediately preceding the qualified employee's
31 commencement of employment with the taxpayer, was a resident
32 of a targeted employment area (as defined in Section 7072 of the
33 Government Code).

34 (X) An employee who qualified the taxpayer for the enterprise
35 zone hiring credit under former Section 23622 or the program area
36 hiring credit under former Section 23623.

37 (XI) Immediately preceding the qualified employee's
38 commencement of employment with the taxpayer, was a member
39 of a targeted group, as defined in Section 51(d) of the Internal
40 Revenue Code, or its successor.

1 (B) Priority for employment shall be provided to an individual
2 who is enrolled in a qualified program under the federal Job
3 Training Partnership Act or the Greater Avenues for Independence
4 Act of 1985 or who is eligible as a member of a targeted group
5 under the Work Opportunity Tax Credit (Section 51 of the Internal
6 Revenue Code), or its successor.

7 (5) “Taxpayer” means a corporation engaged in a trade or
8 business within an enterprise zone designated pursuant to Chapter
9 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
10 the Government Code.

11 (6) “Seasonal employment” means employment by a taxpayer
12 that has regular and predictable substantial reductions in trade or
13 business operations.

14 (c) The taxpayer shall do both of the following:

15 (1) Obtain from the Employment Development Department, as
16 permitted by federal law, the local county or city Job Training
17 Partnership Act administrative entity, the local county GAIN office
18 or social services agency, or the local government administering
19 the enterprise zone, a certification that provides that a qualified
20 employee meets the eligibility requirements specified in clause
21 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
22 Employment Development Department may provide preliminary
23 screening and referral to a certifying agency. The Employment
24 Development Department shall develop a form for this purpose.
25 The Department of Housing and Community Development shall
26 develop regulations governing the issuance of certificates by local
27 governments pursuant to subdivision (a) of Section 7086 of the
28 Government Code.

29 (2) Retain a copy of the certification and provide it upon request
30 to the Franchise Tax Board.

31 (d) (1) For purposes of this section:

32 (A) All employees of all corporations which are members of
33 the same controlled group of corporations shall be treated as
34 employed by a single taxpayer.

35 (B) The credit, if any, allowable by this section to each member
36 shall be determined by reference to its proportionate share of the
37 expense of the qualified wages giving rise to the credit, and shall
38 be allocated in that manner.

1 (C) For purposes of this subdivision, “controlled group of
2 corporations” means “controlled group of corporations” as defined
3 in Section 1563(a) of the Internal Revenue Code, except that:

4 (i) “More than 50 percent” shall be substituted for “at least 80
5 percent” each place it appears in Section 1563(a)(1) of the Internal
6 Revenue Code.

7 (ii) The determination shall be made without regard to
8 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
9 Revenue Code.

10 (2) If an employer acquires the major portion of a trade or
11 business of another employer (hereinafter in this paragraph referred
12 to as the “predecessor”) or the major portion of a separate unit of
13 a trade or business of a predecessor, then, for purposes of applying
14 this section (other than subdivision (e)) for any calendar year
15 ending after that acquisition, the employment relationship between
16 a qualified employee and an employer shall not be treated as
17 terminated if the employee continues to be employed in that trade
18 or business.

19 (e) (1) (A) If the employment, other than seasonal employment,
20 of any qualified employee with respect to whom qualified wages
21 are taken into account under subdivision (a) is terminated by the
22 taxpayer at any time during the first 270 days of that employment,
23 whether or not consecutive, or before the close of the 270th
24 calendar day after the day in which that employee completes 90
25 days of employment with the taxpayer, the tax imposed by this
26 part for the taxable year in which that employment is terminated
27 shall be increased by an amount equal to the credit allowed under
28 subdivision (a) for that taxable year and all prior taxable years
29 attributable to qualified wages paid or incurred with respect to that
30 employee.

31 (B) If the seasonal employment of any qualified employee, with
32 respect to whom qualified wages are taken into account under
33 subdivision (a) is not continued by the taxpayer for a period of
34 270 days of employment during the 60-month period beginning
35 with the day the qualified employee commences seasonal
36 employment with the taxpayer, the tax imposed by this part, for
37 the taxable year that includes the 60th month following the month
38 in which the qualified employee commences seasonal employment
39 with the taxpayer, shall be increased by an amount equal to the
40 credit allowed under subdivision (a) for that taxable year and all

1 prior taxable years attributable to qualified wages paid or incurred
2 with respect to that qualified employee.

3 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
4 any of the following:

5 (i) A termination of employment of a qualified employee who
6 voluntarily leaves the employment of the taxpayer.

7 (ii) A termination of employment of a qualified employee who,
8 before the close of the period referred to in subparagraph (A) of
9 paragraph (1), becomes disabled and unable to perform the services
10 of that employment, unless that disability is removed before the
11 close of that period and the taxpayer fails to offer reemployment
12 to that employee.

13 (iii) A termination of employment of a qualified employee, if
14 it is determined that the termination was due to the misconduct (as
15 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
16 the California Code of Regulations) of that employee.

17 (iv) A termination of employment of a qualified employee due
18 to a substantial reduction in the trade or business operations of the
19 taxpayer.

20 (v) A termination of employment of a qualified employee, if
21 that employee is replaced by other qualified employees so as to
22 create a net increase in both the number of employees and the
23 hours of employment.

24 (B) Subparagraph (B) of paragraph (1) shall not apply to any
25 of the following:

26 (i) A failure to continue the seasonal employment of a qualified
27 employee who voluntarily fails to return to the seasonal
28 employment of the taxpayer.

29 (ii) A failure to continue the seasonal employment of a qualified
30 employee who, before the close of the period referred to in
31 subparagraph (B) of paragraph (1), becomes disabled and unable
32 to perform the services of that seasonal employment, unless that
33 disability is removed before the close of that period and the
34 taxpayer fails to offer seasonal employment to that qualified
35 employee.

36 (iii) A failure to continue the seasonal employment of a qualified
37 employee, if it is determined that the failure to continue the
38 seasonal employment was due to the misconduct (as defined in
39 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
40 Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the taxpayer.

4 (v) A failure to continue the seasonal employment of a qualified
5 employee, if that qualified employee is replaced by other qualified
6 employees so as to create a net increase in both the number of
7 seasonal employees and the hours of seasonal employment.

8 (C) For purposes of paragraph (1), the employment relationship
9 between the taxpayer and a qualified employee shall not be treated
10 as terminated by either of the following:

11 (i) By a transaction to which Section 381(a) of the Internal
12 Revenue Code applies, if the qualified employee continues to be
13 employed by the acquiring corporation.

14 (ii) By reason of a mere change in the form of conducting the
15 trade or business of the taxpayer, if the qualified employee
16 continues to be employed in that trade or business and the taxpayer
17 retains a substantial interest in that trade or business.

18 (3) Any increase in tax under paragraph (1) shall not be treated
19 as tax imposed by this part for purposes of determining the amount
20 of any credit allowable under this part.

21 (f) Rules similar to the rules provided in Section 46(e) and (h)
22 of the Internal Revenue Code shall apply to both of the following:

23 (1) An organization to which Section 593 of the Internal
24 Revenue Code applies.

25 (2) A regulated investment company or a real estate investment
26 trust subject to taxation under this part.

27 (g) For purposes of this section, “enterprise zone” means an
28 area designated as an enterprise zone pursuant to Chapter 12.8
29 (commencing with Section 7070) of Division 7 of Title 1 of the
30 Government Code.

31 (h) The credit allowable under this section shall be reduced by
32 the credit allowed under Sections 23623.5, 23625, and 23646
33 claimed for the same employee. The credit shall also be reduced
34 by the federal credit allowed under Section 51 of the Internal
35 Revenue Code, as amended by the Emergency Economic
36 Stabilization Act of 2008 (Public Law 110-343).

37 In addition, any deduction otherwise allowed under this part for
38 the wages or salaries paid or incurred by the taxpayer upon which
39 the credit is based shall be reduced by the amount of the credit,
40 prior to any reduction required by subdivision (i) or (j).

1 (i) In the case where the credit otherwise allowed under this
2 section exceeds the “tax” for the taxable year, that portion of the
3 credit that exceeds the “tax” may be carried over and added to the
4 credit, if any, in the succeeding 10 taxable years, if necessary, until
5 the credit is exhausted. The credit shall be applied first to the
6 earliest taxable years possible.

7 (j) (1) The amount of the credit otherwise allowed under this
8 section and Section 23612.2, including any credit carryover from
9 prior years, that may reduce the “tax” for the taxable year shall
10 not exceed the amount of tax which would be imposed on the
11 taxpayer’s business income attributable to the enterprise zone
12 determined as if that attributable income represented all of the
13 income of the taxpayer subject to tax under this part.

14 (2) Attributable income shall be that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 enterprise zone. For that purpose, the taxpayer’s business
17 attributable to sources in this state first shall be determined in
18 accordance with Chapter 17 (commencing with Section 25101).
19 That business income shall be further apportioned to the enterprise
20 zone in accordance with Article 2 (commencing with Section
21 25120) of Chapter 17, modified for purposes of this section in
22 accordance with paragraph (3).

23 (3) Business income shall be apportioned to the enterprise zone
24 by multiplying the total California business income of the taxpayer
25 by a fraction, the numerator of which is the property factor plus
26 the payroll factor, and the denominator of which is two. For
27 purposes of this paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the enterprise zone during
31 the income year, and the denominator of which is the average value
32 of all the taxpayer’s real and tangible personal property owned or
33 rented and used in this state during the income year.

34 (B) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the enterprise zone during
36 the income year for compensation, and the denominator of which
37 is the total compensation paid by the taxpayer in this state during
38 the income year.

39 (4) The portion of any credit remaining, if any, after application
40 of this subdivision, shall be carried over to succeeding taxable

1 years, if necessary, until the credit is exhausted, as if it were an
 2 amount exceeding the “tax” for the taxable year, as provided in
 3 subdivision (i). However, the portion of any credit remaining for
 4 carryover to taxable years beginning on or after January 1, 2014,
 5 if any, after application of this subdivision, shall be carried over
 6 only to the succeeding 10 taxable years if necessary, until the credit
 7 is exhausted, as if it were an amount exceeding the “tax” for the
 8 taxable year, as provided in subdivision (i).

9 (k) The changes made to this section by the act adding this
 10 subdivision shall apply to taxable years on or after January 1, 1997.

11 (l) (1) Except as provided in paragraph (2), this section shall
 12 cease to be operative on January 1, 2014, and shall be repealed on
 13 December 1, 2019. A credit shall not be allowed under this section
 14 with respect to an employee who first commences employment
 15 with a taxpayer on or after January 1, 2014.

16 (2) This section shall continue to apply with respect to qualified
 17 employees who are employed by the taxpayer within the enterprise
 18 zone within the 60-month period immediately preceding January
 19 1, 2014, and qualified wages paid or incurred with respect to those
 20 qualified employees shall continue to qualify for the credit under
 21 this section for taxable years beginning on or after January 1, 2014,
 22 in accordance with this section, as amended by the act adding this
 23 subdivision.

24 SEC. 26. Section 23622.8 of the Revenue and Taxation Code
 25 is amended to read:

26 23622.8. (a) For each taxable year beginning on or after
 27 January 1, 1998, there shall be allowed a credit against the “tax”
 28 (as defined in Section 23036) to a qualified taxpayer for hiring a
 29 qualified disadvantaged individual during the taxable year for
 30 employment in the manufacturing enhancement area. The credit
 31 shall be equal to the sum of each of the following:

32 (1) Fifty percent of the qualified wages in the first year of
 33 employment.

34 (2) Forty percent of the qualified wages in the second year of
 35 employment.

36 (3) Thirty percent of the qualified wages in the third year of
 37 employment.

38 (4) Twenty percent of the qualified wages in the fourth year of
 39 employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum wage.

8 (B) The total amount of qualified wages which may be taken
9 into account for purposes of claiming the credit allowed under this
10 section shall not exceed two million dollars (\$2,000,000) per
11 taxable year.

12 (C) Wages received during the 60-month period beginning with
13 the first day the qualified disadvantaged individual commences
14 employment with the qualified taxpayer. Reemployment in
15 connection with any increase, including a regularly occurring
16 seasonal increase, in the trade or business operations of the
17 qualified taxpayer does not constitute commencement of
18 employment for purposes of this section.

19 (D) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the manufacturing
21 enhancement area expiration date. However, wages paid or incurred
22 with respect to qualified employees who are employed by the
23 qualified taxpayer within the manufacturing enhancement area
24 within the 60-month period prior to the manufacturing enhancement
25 area expiration date shall continue to qualify for the credit under
26 this section after the manufacturing enhancement area expiration
27 date, in accordance with all provisions of this section applied as
28 if the manufacturing enhancement area designation were still in
29 existence and binding.

30 (2) “Minimum wage” means the wage established by the
31 Industrial Welfare Commission as provided for in Chapter 1
32 (commencing with Section 1171) of Part 4 of Division 2 of the
33 Labor Code.

34 (3) “Manufacturing enhancement area” means an area designated
35 pursuant to Section 7073.8 of the Government Code according to
36 the procedures of Chapter 12.8 (commencing with Section 7070)
37 of Division 7 of Title 1 of the Government Code.

38 (4) “Manufacturing enhancement area expiration date” means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, becomes inoperative, or is repealed.

- 1 (5) “Qualified disadvantaged individual” means an individual
2 who satisfies all of the following requirements:
- 3 (A) (i) At least 90 percent of whose services for the qualified
4 taxpayer during the taxable year are directly related to the conduct
5 of the qualified taxpayer’s trade or business located in a
6 manufacturing enhancement area.
- 7 (ii) Who performs at least 50 percent of his or her services for
8 the qualified taxpayer during the taxable year in the manufacturing
9 enhancement area.
- 10 (B) Who is hired by the qualified taxpayer after the designation
11 of the area as a manufacturing enhancement area in which the
12 individual’s services were primarily performed.
- 13 (C) Who is any of the following immediately preceding the
14 individual’s commencement of employment with the qualified
15 taxpayer:
- 16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.) or its successor.
- 19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985, or its successor, as
21 provided pursuant to Article 3.2 (commencing with Section 11320)
22 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
23 Code.
- 24 (iii) Any individual who has been certified eligible by the
25 Employment Development Department under the federal Targeted
26 Jobs Tax Credit Program, or its successor, whether or not this
27 program is in effect.
- 28 (6) “Qualified taxpayer” means any corporation engaged in a
29 trade or business within a manufacturing enhancement area
30 designated pursuant to Section 7073.8 of the Government Code
31 and that meets all of the following requirements:
- 32 (A) Is engaged in those lines of business described in Codes
33 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
34 inclusive, of the Standard Industrial Classification (SIC) Manual
35 published by the United States Office of Management and Budget,
36 1987 edition.
- 37 (B) At least 50 percent of the qualified taxpayer’s workforce
38 hired after the designation of the manufacturing enhancement area
39 is composed of individuals who, at the time of hire, are residents

1 of the county in which the manufacturing enhancement area is
2 located.

3 (C) Of this percentage of local hires, at least 30 percent shall
4 be qualified disadvantaged individuals.

5 (7) “Seasonal employment” means employment by a qualified
6 taxpayer that has regular and predictable substantial reductions in
7 trade or business operations.

8 (c) (1) For purposes of this section, all of the following apply:

9 (A) All employees of all corporations that are members of the
10 same controlled group of corporations shall be treated as employed
11 by a single qualified taxpayer.

12 (B) The credit (if any) allowable by this section with respect to
13 each member shall be determined by reference to its proportionate
14 share of the expenses of the qualified wages giving rise to the
15 credit and shall be allocated in that manner.

16 (C) Principles that apply in the case of controlled groups of
17 corporations, as specified in subdivision (d) of Section 23622.7,
18 shall apply with respect to determining employment.

19 (2) If a qualified taxpayer acquires the major portion of a trade
20 or business of another employer (hereinafter in this paragraph
21 referred to as the “predecessor”) or the major portion of a separate
22 unit of a trade or business of a predecessor, then, for purposes of
23 applying this section (other than subdivision (d)) for any calendar
24 year ending after that acquisition, the employment relationship
25 between a qualified disadvantaged individual and a qualified
26 taxpayer shall not be treated as terminated if the qualified
27 disadvantaged individual continues to be employed in that trade
28 or business.

29 (d) (1) (A) If the employment, other than seasonal employment,
30 of any qualified disadvantaged individual, with respect to whom
31 qualified wages are taken into account under subdivision (b) is
32 terminated by the qualified taxpayer at any time during the first
33 270 days of that employment (whether or not consecutive) or before
34 the close of the 270th calendar day after the day in which that
35 qualified disadvantaged individual completes 90 days of
36 employment with the qualified taxpayer, the tax imposed by this
37 part for the taxable year in which that employment is terminated
38 shall be increased by an amount equal to the credit allowed under
39 subdivision (a) for that taxable year and all prior taxable years

1 attributable to qualified wages paid or incurred with respect to that
2 qualified disadvantaged individual.

3 (B) If the seasonal employment of any qualified disadvantaged
4 individual, with respect to whom qualified wages are taken into
5 account under subdivision (a) is not continued by the qualified
6 taxpayer for a period of 270 days of employment during the
7 60-month period beginning with the day the qualified
8 disadvantaged individual commences seasonal employment with
9 the qualified taxpayer, the tax imposed by this part, for the income
10 year that includes the 60th month following the month in which
11 the qualified disadvantaged individual commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified disadvantaged
16 individual.

17 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
18 any of the following:

19 (i) A termination of employment of a qualified disadvantaged
20 individual who voluntarily leaves the employment of the qualified
21 taxpayer.

22 (ii) A termination of employment of a qualified disadvantaged
23 individual who, before the close of the period referred to in
24 subparagraph (A) of paragraph (1), becomes disabled to perform
25 the services of that employment, unless that disability is removed
26 before the close of that period and the qualified taxpayer fails to
27 offer reemployment to that individual.

28 (iii) A termination of employment of a qualified disadvantaged
29 individual, if it is determined that the termination was due to the
30 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
31 of Title 22 of the California Code of Regulations) of that individual.

32 (iv) A termination of employment of a qualified disadvantaged
33 individual due to a substantial reduction in the trade or business
34 operations of the qualified taxpayer.

35 (v) A termination of employment of a qualified disadvantaged
36 individual, if that individual is replaced by other qualified
37 disadvantaged individuals so as to create a net increase in both the
38 number of employees and the hours of employment.

39 (B) Subparagraph (B) of paragraph (1) shall not apply to any
40 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual who voluntarily fails to return to the
3 seasonal employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 disadvantaged individual who, before the close of the period
6 referred to in subparagraph (B) of paragraph (1), becomes disabled
7 and unable to perform the services of that seasonal employment,
8 unless that disability is removed before the close of that period
9 and the qualified taxpayer fails to offer seasonal employment to
10 that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of a qualified
12 disadvantaged individual, if it is determined that the failure to
13 continue the seasonal employment was due to the misconduct (as
14 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
15 the California Code of Regulations) of that qualified disadvantaged
16 individual.

17 (iv) A failure to continue seasonal employment of a qualified
18 disadvantaged individual due to a substantial reduction in the
19 regular seasonal trade or business operations of the qualified
20 taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual, if that qualified disadvantaged individual
23 is replaced by other qualified disadvantaged individuals so as to
24 create a net increase in both the number of seasonal employees
25 and the hours of seasonal employment.

26 (C) For purposes of paragraph (1), the employment relationship
27 between the qualified taxpayer and a qualified disadvantaged
28 individual shall not be treated as terminated by either of the
29 following:

30 (i) By a transaction to which Section 381(a) of the Internal
31 Revenue Code applies, if the qualified disadvantaged individual
32 continues to be employed by the acquiring corporation.

33 (ii) By reason of a mere change in the form of conducting the
34 trade or business of the qualified taxpayer, if the qualified
35 disadvantaged individual continues to be employed in that trade
36 or business and the qualified taxpayer retains a substantial interest
37 in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (e) The credit shall be reduced by the credit allowed under
2 Section 23621. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code, as
4 amended by the Emergency Economic Stabilization Act of 2008
5 (Public Law 110-343).

6 In addition, any deduction otherwise allowed under this part for
7 the wages or salaries paid or incurred by the qualified taxpayer
8 upon which the credit is based shall be reduced by the amount of
9 the credit, prior to any reduction required by subdivision (f) or (g).

10 (f) In the case where the credit otherwise allowed under this
11 section exceeds the “tax” for the taxable year, that portion of the
12 credit that exceeds the “tax” may be carried over and added to the
13 credit, if any, in the succeeding 10 taxable years, if necessary, until
14 the credit is exhausted. The credit shall be applied first to the
15 earliest taxable years possible.

16 (g) (1) The amount of credit otherwise allowed under this
17 section, including prior year credit carryovers, that may reduce
18 the “tax” for the taxable year shall not exceed the amount of tax
19 that would be imposed on the qualified taxpayer’s business income
20 attributed to a manufacturing enhancement area determined as if
21 that attributed income represented all of the net income of the
22 qualified taxpayer subject to tax under this part.

23 (2) Attributable income is that portion of the taxpayer’s
24 California source business income that is apportioned to the
25 manufacturing enhancement area. For that purpose, the taxpayer’s
26 business income attributable to sources in this state first shall be
27 determined in accordance with Chapter 17 (commencing with
28 Section 25101). That business income shall be further apportioned
29 to the manufacturing enhancement area in accordance with Article
30 2 (commencing with Section 25120) of Chapter 17, modified for
31 purposes of this section in accordance with paragraph (3).

32 (3) Income shall be apportioned to a manufacturing enhancement
33 area by multiplying the total California business income of the
34 taxpayer by a fraction, the numerator of which is the property
35 factor plus the payroll factor, and the denominator of which is two.
36 For the purposes of this paragraph:

37 (A) The property factor is a fraction, the numerator of which is
38 the average value of the taxpayer’s real and tangible personal
39 property owned or rented and used in the manufacturing
40 enhancement area during the taxable year, and the denominator

1 of which is the average value of all the taxpayer's real and tangible
2 personal property owned or rented and used in this state during
3 the taxable year.

4 (B) The payroll factor is a fraction, the numerator of which is
5 the total amount paid by the taxpayer in the manufacturing
6 enhancement area during the taxable year for compensation, and
7 the denominator of which is the total compensation paid by the
8 taxpayer in this state during the taxable year.

9 (4) The portion of any credit remaining, if any, after application
10 of this subdivision, shall be carried over to succeeding taxable
11 years, if necessary, until the credit is exhausted, as if it were an
12 amount exceeding the "tax" for the taxable year, as provided in
13 subdivision (g). However, the portion of any credit remaining for
14 carryover to taxable years beginning on or after January 1, 2014,
15 if any, after application of this subdivision, shall be carried over
16 only to the succeeding 10 taxable years if necessary, until the credit
17 is exhausted, as if it were an amount exceeding the "tax" for the
18 taxable year, as provided in subdivision (g).

19 (h) If the taxpayer is allowed a credit pursuant to this section
20 for qualified wages paid or incurred, only one credit shall be
21 allowed to the taxpayer under this part with respect to any wage
22 consisting in whole or in part of those qualified wages.

23 (i) The qualified taxpayer shall do both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the local county or city Job Training
26 Partnership Act administrative entity, the local county GAIN office
27 or social services agency, or the local government administering
28 the manufacturing enhancement area, a certification that provides
29 that a qualified disadvantaged individual meets the eligibility
30 requirements specified in paragraph (5) of subdivision (b). The
31 Employment Development Department may provide preliminary
32 screening and referral to a certifying agency. The Department of
33 Housing and Community Development shall develop regulations
34 governing the issuance of certificates pursuant to subdivision (d)
35 of Section 7086 of the Government Code and shall develop forms
36 for this purpose.

37 (2) Retain a copy of the certification and provide it upon request
38 to the Franchise Tax Board.

1 (j) (1) Except as provided in paragraph (2), this section shall
2 cease to be operative for taxable years beginning on or after January
3 1, 2014, and shall be repealed on December 1, 2019.

4 (2) The section shall continue to apply with respect to qualified
5 employees who are employed by the qualified taxpayer within the
6 manufacturing enhancement area within the 60-month period
7 immediately preceding January 1, 2014, and qualified wages paid
8 or incurred with respect to those qualified employees shall continue
9 to qualify for the credit under this section for taxable years
10 beginning on or after January 1, 2014, in accordance with this
11 section, as amended by the act adding this subdivision.

12 SEC. 27. Section 23646 of the Revenue and Taxation Code is
13 amended to read:

14 23646. (a) For each taxable year beginning on or after January
15 1, 1995, there shall be allowed as a credit against the “tax” (as
16 defined in Section 23036) to a qualified taxpayer for hiring a
17 qualified disadvantaged individual or a qualified displaced
18 employee during the taxable year for employment in the LAMBRA.
19 The credit shall be equal to the sum of each of the following:

20 (1) Fifty percent of the qualified wages in the first year of
21 employment.

22 (2) Forty percent of the qualified wages in the second year of
23 employment.

24 (3) Thirty percent of the qualified wages in the third year of
25 employment.

26 (4) Twenty percent of the qualified wages in the fourth year of
27 employment.

28 (5) Ten percent of the qualified wages in the fifth year of
29 employment.

30 (b) For purposes of this section:

31 (1) “Qualified wages” means:

32 (A) That portion of wages paid or incurred by the employer
33 during the taxable year to qualified disadvantaged individuals or
34 qualified displaced employees that does not exceed 150 percent
35 of the minimum wage.

36 (B) The total amount of qualified wages which may be taken
37 into account for purposes of claiming the credit allowed under this
38 section shall not exceed two million dollars (\$2,000,000) per
39 taxable year.

1 (C) Wages received during the 60-month period beginning with
2 the first day the individual commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operation of the qualified taxpayer does not constitute
6 commencement of employment for purposes of this section.

7 (D) Qualified wages do not include any wages paid or incurred
8 by the qualified taxpayer on or after the LAMBRA expiration date.
9 However, wages paid or incurred with respect to qualified
10 disadvantaged individuals or qualified displaced employees who
11 are employed by the qualified taxpayer within the LAMBRA within
12 the 60-month period prior to the LAMBRA expiration date shall
13 continue to qualify for the credit under this section after the
14 LAMBRA expiration date, in accordance with all provisions of
15 this section applied as if the LAMBRA designation were still in
16 existence and binding.

17 (2) “Minimum wage” means the wage established by the
18 Industrial Welfare Commission as provided for in Chapter 1
19 (commencing with Section 1171) of Part 4 of Division 2 of the
20 Labor Code.

21 (3) “LAMBRA” means a local agency military base recovery
22 area designated in accordance with the provisions of Section 7114
23 of the Government Code.

24 (4) “Qualified disadvantaged individual” means an individual
25 who satisfies all of the following requirements:

26 (A) (i) At least 90 percent of whose services for the taxpayer
27 during the taxable year are directly related to the conduct of the
28 taxpayer’s trade or business located in a LAMBRA.

29 (ii) Who performs at least 50 percent of his or her services for
30 the taxpayer during the taxable year in the LAMBRA.

31 (B) Who is hired by the employer after the designation of the
32 area as a LAMBRA in which the individual’s services were
33 primarily performed.

34 (C) Who is any of the following immediately preceding the
35 individual’s commencement of employment with the taxpayer:

36 (i) An individual who has been determined eligible for services
37 under the federal Job Training Partnership Act (29 U.S.C. Sec.
38 1501 et seq.), or its successor.

39 (ii) Any voluntary or mandatory registrant under the Greater
40 Avenues for Independence Act of 1985 provided for pursuant to

1 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
2 3 of Division 9 of the Welfare and Institutions Code.

3 (iii) An economically disadvantaged individual 16 years of age
4 or older.

5 (iv) A dislocated worker who meets any of the following
6 conditions:

7 (I) Has been terminated or laid off or who has received a notice
8 of termination or layoff from employment, is eligible for or has
9 exhausted entitlement to unemployment insurance benefits, and
10 is unlikely to return to his or her previous industry or occupation.

11 (II) Has been terminated or has received a notice of termination
12 of employment as a result of any permanent closure or any
13 substantial layoff at a plant, facility, or enterprise, including an
14 individual who has not received written notification but whose
15 employer has made a public announcement of the closure or layoff.

16 (III) Is long-term unemployed and has limited opportunities for
17 employment or reemployment in the same or a similar occupation
18 in the area in which the individual resides, including an individual
19 55 years of age or older who may have substantial barriers to
20 employment by reason of age.

21 (IV) Was self-employed (including farmers and ranchers) and
22 is unemployed as a result of general economic conditions in the
23 community in which he or she resides or because of natural
24 disasters.

25 (V) Was a civilian employee of the Department of Defense
26 employed at a military installation being closed or realigned under
27 the Defense Base Closure and Realignment Act of 1990.

28 (VI) Was an active member of the Armed Forces or National
29 Guard as of September 30, 1990, and was either involuntarily
30 separated or separated pursuant to a special benefits program.

31 (VII) Experiences chronic seasonal unemployment and
32 underemployment in the agriculture industry, aggravated by
33 continual advancements in technology and mechanization.

34 (VIII) Has been terminated or laid off or has received a notice
35 of termination or layoff as a consequence of compliance with the
36 Clean Air Act.

37 (v) An individual who is enrolled in or has completed a state
38 rehabilitation plan or is a service-connected disabled veteran,
39 veteran of the Vietnam era, or veteran who is recently separated
40 from military service.

1 (vi) An ex-offender. An individual shall be treated as convicted
2 if he or she was placed on probation by a state court without a
3 finding of guilty.

4 (vii) A recipient of:

5 (I) Federal Supplemental Security Income benefits.

6 (II) Aid to Families with Dependent Children.

7 (III) CalFresh benefits.

8 (IV) State and local general assistance.

9 (viii) Is a member of a federally recognized Indian tribe, band,
10 or other group of Native American descent.

11 (5) “Qualified taxpayer” means a corporation that conducts a
12 trade or business within a LAMBRA and, for the first two taxable
13 years, has a net increase in jobs (defined as 2,000 paid hours per
14 employee per year) of one or more employees as determined below
15 in the LAMBRA.

16 (A) The net increase in the number of jobs shall be determined
17 by subtracting the total number of full-time employees (defined
18 as 2,000 paid hours per employee per year) the taxpayer employed
19 in this state in the taxable year prior to commencing business
20 operations in the LAMBRA from the total number of full-time
21 employees the taxpayer employed in this state during the second
22 taxable year after commencing business operations in the
23 LAMBRA. For taxpayers who commence doing business in this
24 state with their LAMBRA business operation, the number of
25 employees for the taxable year prior to commencing business
26 operations in the LAMBRA shall be zero. If the taxpayer has a net
27 increase in jobs in the state, the credit shall be allowed only if one
28 or more full-time employees is employed within the LAMBRA.

29 (B) The total number of employees employed in the LAMBRA
30 shall equal the sum of both of the following:

31 (i) The total number of hours worked in the LAMBRA for the
32 taxpayer by employees (not to exceed 2,000 hours per employee)
33 who are paid an hourly wage divided by 2,000.

34 (ii) The total number of months worked in the LAMBRA for
35 the taxpayer by employees who are salaried employees divided
36 by 12.

37 (C) In the case of a qualified taxpayer that first commences
38 doing business in the LAMBRA during the taxable year, for
39 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
40 the divisors “2,000” and “12” shall be multiplied by a fraction, the

1 numerator of which is the number of months of the taxable year
2 that the taxpayer was doing business in the LAMBRA and the
3 denominator of which is 12.

4 (6) “Qualified displaced employee” means an individual who
5 satisfies all of the following requirements:

6 (A) Any civilian or military employee of a base or former base
7 that has been displaced as a result of a federal base closure act.

8 (B) (i) At least 90 percent of whose services for the taxpayer
9 during the taxable year are directly related to the conduct of the
10 taxpayer’s trade or business located in a LAMBRA.

11 (ii) Who performs at least 50 percent of his or her services for
12 the taxpayer during the taxable year in a LAMBRA.

13 (C) Who is hired by the employer after the designation of the
14 area in which services were performed as a LAMBRA.

15 (7) “Seasonal employment” means employment by a qualified
16 taxpayer that has regular and predictable substantial reductions in
17 trade or business operations.

18 (8) “LAMBRA expiration date” means the date the LAMBRA
19 designation expires, is no longer binding, becomes inoperative, or
20 is repealed.

21 (c) For qualified disadvantaged individuals or qualified displaced
22 employees hired on or after January 1, 2001, the taxpayer shall do
23 both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the administrative entity of the local
26 county or city for the federal Job Training Partnership Act, or its
27 successor, the local county GAIN office or social services agency,
28 or the local government administering the LAMBRA, a
29 certification that provides that a qualified disadvantaged individual
30 or qualified displaced employee meets the eligibility requirements
31 specified in subparagraph (C) of paragraph (4) of subdivision (b)
32 or subparagraph (A) of paragraph (6) of subdivision (b). The
33 Employment Development Department may provide preliminary
34 screening and referral to a certifying agency. The Department of
35 Housing and Community Development shall develop regulations
36 governing the issuance of certificates pursuant to Section 7114.2
37 of the Government Code and shall develop forms for this purpose.

38 (2) Retain a copy of the certification and provide it upon request
39 to the Franchise Tax Board.

40 (d) (1) For purposes of this section, both of the following apply:

1 (A) All employees of all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single employer.

4 (B) The credit (if any) allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 qualified wages giving rise to the credit.

7 (2) For purposes of this subdivision, “controlled group of
8 corporations” has the meaning given to that term by Section
9 1563(a) of the Internal Revenue Code, except that both of the
10 following apply:

11 (A) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (B) The determination shall be made without regard to Section
15 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
16 Code.

17 (3) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (e)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 an employee and an employer shall not be treated as terminated if
24 the employee continues to be employed in that trade or business.

25 (e) (1) (A) If the employment of any employee, other than
26 seasonal employment, with respect to whom qualified wages are
27 taken into account under subdivision (a) is terminated by the
28 taxpayer at any time during the first 270 days of that employment
29 (whether or not consecutive) or before the close of the 270th
30 calendar day after the day in which that employee completes 90
31 days of employment with the taxpayer, the tax imposed by this
32 part for the taxable year in which that employment is terminated
33 shall be increased by an amount equal to the credit allowed under
34 subdivision (a) for that taxable year and all prior income years
35 attributable to qualified wages paid or incurred with respect to that
36 employee.

37 (B) If the seasonal employment of any qualified disadvantaged
38 individual, with respect to whom qualified wages are taken into
39 account under subdivision (a) is not continued by the qualified
40 taxpayer for a period of 270 days of employment during the

1 60-month period beginning with the day the qualified
2 disadvantaged individual commences seasonal employment with
3 the qualified taxpayer, the tax imposed by this part, for the taxable
4 year that includes the 60th month following the month in which
5 the qualified disadvantaged individual commences seasonal
6 employment with the qualified taxpayer, shall be increased by an
7 amount equal to the credit allowed under subdivision (a) for that
8 taxable year and all prior taxable years attributable to qualified
9 wages paid or incurred with respect to that qualified disadvantaged
10 individual.

11 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
12 any of the following:

13 (i) A termination of employment of an employee who voluntarily
14 leaves the employment of the taxpayer.

15 (ii) A termination of employment of an individual who, before
16 the close of the period referred to in paragraph (1), becomes
17 disabled to perform the services of that employment, unless that
18 disability is removed before the close of that period and the
19 taxpayer fails to offer reemployment to that individual.

20 (iii) A termination of employment of an individual, if it is
21 determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that individual.

24 (iv) A termination of employment of an individual due to a
25 substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of an individual, if that
28 individual is replaced by other qualified employees so as to create
29 a net increase in both the number of employees and the hours of
30 employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 disadvantaged individual who voluntarily fails to return to the
35 seasonal employment of the qualified taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 disadvantaged individual who, before the close of the period
38 referred to in subparagraph (B) of paragraph (1), becomes disabled
39 and unable to perform the services of that seasonal employment,
40 unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to
2 that qualified disadvantaged individual.

3 (iii) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual, if it is determined that the failure to
5 continue the seasonal employment was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that individual.

8 (iv) A failure to continue seasonal employment of a qualified
9 disadvantaged individual due to a substantial reduction in the
10 regular seasonal trade or business operations of the qualified
11 taxpayer.

12 (v) A failure to continue the seasonal employment of a qualified
13 disadvantaged individual, if that individual is replaced by other
14 qualified disadvantaged individuals so as to create a net increase
15 in both the number of seasonal employees and the hours of seasonal
16 employment.

17 (C) For purposes of paragraph (1), the employment relationship
18 between the taxpayer and an employee shall not be treated as
19 terminated by either of the following:

20 (i) A transaction to which Section 381(a) of the Internal Revenue
21 Code applies, if the employee continues to be employed by the
22 acquiring corporation.

23 (ii) A mere change in the form of conducting the trade or
24 business of the taxpayer, if the employee continues to be employed
25 in that trade or business and the taxpayer retains a substantial
26 interest in that trade or business.

27 (3) Any increase in tax under paragraph (1) shall not be treated
28 as tax imposed by this part for purposes of determining the amount
29 of any credit allowable under this part.

30 (4) At the close of the second taxable year, if the taxpayer has
31 not increased the number of its employees as determined by
32 paragraph (5) of subdivision (b), then the amount of the credit
33 previously claimed shall be added to the taxpayer's tax for the
34 taxpayer's second taxable year.

35 (f) In the case of an organization to which Section 593 of the
36 Internal Revenue Code applies, and a regulated investment
37 company or a real estate investment trust subject to taxation under
38 this part, rules similar to the rules provided in Section 46(e) and
39 Section 46(h) of the Internal Revenue Code shall apply.

1 (g) The credit shall be reduced by the credit allowed under
2 Section 23621. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code, as
4 amended by the Emergency Stabilization Act of 2008 (Public Law
5 110-343).

6 In addition, any deduction otherwise allowed under this part for
7 the wages or salaries paid or incurred by the taxpayer upon which
8 the credit is based shall be reduced by the amount of the credit,
9 prior to any reduction required by subdivision (h) or (i).

10 (h) In the case where the credit otherwise allowed under this
11 section exceeds the “tax” for the taxable year, that portion of the
12 credit that exceeds the “tax” may be carried over and added to the
13 credit, if any, in the succeeding 10 taxable years, if necessary, until
14 the credit is exhausted. The credit shall be applied first to the
15 earliest taxable years possible.

16 (i) (1) The amount of credit otherwise allowed under this section
17 and Section 23645, including any prior year carryovers, that may
18 reduce the “tax” for the taxable year shall not exceed the amount
19 of tax that would be imposed on the taxpayer’s business income
20 attributed to a LAMBRA determined as if that attributed income
21 represented all of the income of the taxpayer subject to tax under
22 this part.

23 (2) Attributable income shall be that portion of the taxpayer’s
24 California source business income that is apportioned to the
25 LAMBRA. For that purpose, the taxpayer’s business income that
26 is attributable to sources in this state first shall be determined in
27 accordance with Chapter 17 (commencing with Section 25101).
28 That business income shall be further apportioned to the LAMBRA
29 in accordance with Article 2 (commencing with Section 25120)
30 of Chapter 17, modified for purposes of this section in accordance
31 with paragraph (3).

32 (3) Income shall be apportioned to a LAMBRA by multiplying
33 the total California business income of the taxpayer by a fraction,
34 the numerator of which is the property factor plus the payroll factor,
35 and the denominator of which is two. For purposes of this
36 paragraph:

37 (A) The property factor is a fraction, the numerator of which is
38 the average value of the taxpayer’s real and tangible personal
39 property owned or rented and used in the LAMBRA during the
40 taxable year, and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the LAMBRA during the
5 taxable year for compensation, and the denominator of which is
6 the total compensation paid by the taxpayer in this state during the
7 taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, if necessary, until the credit is exhausted, as if it were an
11 amount exceeding the "tax" for the taxable year, as provided in
12 subdivision (h). However, the portion of any credit remaining for
13 carryover to taxable years beginning on or after January 1, 2014,
14 if any, after application of this subdivision, shall be carried over
15 only to the succeeding 10 taxable years, if necessary, until the
16 credit is exhausted, as if it were an amount exceeding the "tax"
17 for the taxable year, as provided in subdivision (h).

18 (j) If the taxpayer is allowed a credit pursuant to this section for
19 qualified wages paid or incurred, only one credit shall be allowed
20 to the taxpayer under this part with respect to any wage consisting
21 in whole or in part of those qualified wages.

22 (k) (1) Except as provided in paragraph (2), this section shall
23 cease to be operative on January 1, 2014, and shall be repealed on
24 December 1, 2019. A credit shall not be allowed under this section
25 with respect to an employee who first commences employment
26 with a qualified taxpayer on or after January 1, 2014.

27 (2) This section shall continue to apply with respect to qualified
28 disadvantaged individuals or qualified displaced employees who
29 are employed by the qualified taxpayer within the LAMBRA within
30 the 60-month period immediately preceding January 1, 2014, and
31 qualified wages paid or incurred with respect to those qualified
32 disadvantaged individuals or qualified displaced employees shall
33 continue to qualify for the credit under this section for taxable
34 years beginning on or after January 1, 2014, in accordance with
35 this section, as amended by the act adding this subdivision.

36 SEC. 28. Section 23701i of the Revenue and Taxation Code
37 is amended to read:

38 23701i. A voluntary employees' beneficiary association
39 described in Section 501(c)(9) of the Internal Revenue Code.

1 SEC. 29. Section 24307 of the Revenue and Taxation Code is
2 amended to read:

3 24307. (a) Section 108 of the Internal Revenue Code, relating
4 to income from discharge of indebtedness, shall apply, except as
5 otherwise provided.

6 (b) Section 108(b)(2)(B) of the Internal Revenue Code, relating
7 to general business credit, is modified by substituting “this part”
8 in lieu of “Section 38 (relating to general business credit).”

9 (c) Section 108(b)(2)(G) of the Internal Revenue Code, relating
10 to foreign tax credit carryovers, shall not apply.

11 (d) Section 108(b)(3)(B) of the Internal Revenue Code, relating
12 to credit carryover reduction, is modified by substituting “11.1
13 cents” in lieu of “33 1/3 cents” in each place in which it appears. In
14 the case where more than one credit is allowable under this part,
15 the credits shall be reduced on a pro rata basis.

16 (e) Section 108(g)(3)(B) of the Internal Revenue Code, relating
17 to adjusted tax attributes, is modified by substituting “\$9” in lieu
18 of “\$3.”

19 (f) (1) The amendments to Section 108 of the Internal Revenue
20 Code made by Section 13150 of the Revenue Reconciliation Act
21 of 1993 (Public Law 103-66), relating to exclusion from gross
22 income for income from discharge of qualified real property
23 business indebtedness, shall apply to discharges occurring on or
24 after January 1, 1996, in taxable years beginning on or after January
25 1, 1996.

26 (2) If a taxpayer makes an election for federal income tax
27 purposes under Section 108(c) of the Internal Revenue Code,
28 relating to treatment of discharge of qualified real property business
29 indebtedness, a separate election shall not be allowed under
30 paragraph (3) of subdivision (e) of Section 23051.5 and the federal
31 election shall be binding for purposes of this part.

32 (3) If a taxpayer has not made an election for federal income
33 tax purposes under Section 108(c) of the Internal Revenue Code,
34 relating to treatment of discharge of qualified real property business
35 indebtedness, then the taxpayer shall not be allowed to make that
36 election for purposes of this part.

37 (g) The amendments to Section 108 of the Internal Revenue
38 Code made by Section 13226 of the Revenue Reconciliation Act
39 of 1993 (Public Law 103-66), relating to modifications of discharge
40 of indebtedness provisions, shall apply to discharges occurring on

1 or after January 1, 1996, in taxable years beginning on or after
2 January 1, 1996.

3 (h) The amendments made to Section 108(d)(7)(A) of the
4 Internal Revenue Code, relating to certain provisions to be applied
5 at the corporate level by Section 402 of the Job Creation and
6 Worker Assistance Act of 2002 (Public Law 107-147), shall apply
7 to discharges of indebtedness after December 31, 2001, in taxable
8 years ending after that date. This subdivision shall not apply to
9 any discharge of indebtedness made before March 1, 2002, pursuant
10 to a plan of reorganization filed with a bankruptcy court on or
11 before October 11, 2001.

12 (i) Section 108(i) of the Internal Revenue Code, relating to
13 deferral and ratable inclusion of income arising from business
14 indebtedness discharged by the reacquisition of a debt instrument,
15 shall not apply.

16 SEC. 30. Section 24345.5 is added to the Revenue and Taxation
17 Code, to read:

18 24345.5. A deduction shall not be allowed for the fee imposed
19 by subsection (a) of Section 9008 of the Patient Protection and
20 Affordable Care Act (Public Law 111-148).

21 SEC. 31. Section 24427 of the Revenue and Taxation Code is
22 amended to read:

23 24427. Section 267 of the Internal Revenue Code, relating to
24 losses, expenses, and interest with respect to transactions between
25 related taxpayers, shall apply, except as otherwise provided.

26 SEC. 32. Section 24439 of the Revenue and Taxation Code is
27 amended to read:

28 24439. (a) No deduction shall be allowed to the issuing
29 corporation for any premium paid or incurred upon the repurchase
30 of a bond, debenture, note, or certificate or other evidence of
31 indebtedness which is convertible into the stock of the issuing
32 corporation, or a corporation in the same parent-subsubsidiary
33 controlled group, within the meaning of Section 1563(a)(1) of the
34 Internal Revenue Code, relating to parent-subsubsidiary controlled
35 group, as the issuing corporation, to the extent the repurchase price
36 exceeds an amount equal to the adjusted issue price plus a normal
37 call premium on bonds or other evidences of indebtedness which
38 are not convertible. The preceding sentence shall not apply to the
39 extent that the corporation can demonstrate to the satisfaction of

1 the Franchise Tax Board that such excess is attributable to the cost
2 of borrowing and is not attributable to the conversion feature.

3 (b) For purposes of subdivision (a), the adjusted issue price is
4 the issue price, as defined in Sections 1273(b) and 1274 of the
5 Internal Revenue Code, increased by any amount of discount
6 deducted before repurchase, or, in the case of bonds or other
7 evidences of indebtedness issued after February 28, 1913,
8 decreased by any amount of premium included in gross income
9 before repurchase by the issuing corporation.

10 (c) The provisions of this section shall not apply to a convertible
11 bond or other convertible evidence of indebtedness repurchased
12 pursuant to a binding obligation incurred on or before April 22,
13 1969, to repurchase such bond or other evidence of indebtedness
14 at a specified call premium, but no inference shall be drawn from
15 the fact that this section does not apply to the repurchase of such
16 convertible bond or other convertible evidence of indebtedness.

17 (d) The amendments made to this section by the act adding this
18 subdivision shall apply to repurchases on or after January 1, 2015.

19 SEC. 33. Section 24452.1 of the Revenue and Taxation Code
20 is repealed.

21 SEC. 34. Section 24454 is added to the Revenue and Taxation
22 Code, to read:

23 24454. Section 304(b)(5)(B) of the Internal Revenue Code,
24 relating to special rule in case of foreign acquiring corporation,
25 shall apply to acquisitions on or after January 1, 2015.

26 SEC. 35. Section 24459 is added to the Revenue and Taxation
27 Code, to read:

28 24459. Section 382(n) of the Internal Revenue Code, relating
29 to special rule for certain ownership changes, shall not apply.

30 SEC. 36. Section 24870 of the Revenue and Taxation Code is
31 amended to read:

32 24870. Subchapter M of Chapter 1 of Subtitle A of the Internal
33 Revenue Code, relating to regulated investment companies and
34 real estate investment trusts, shall apply, except as otherwise
35 provided in this part.

36 SEC. 37. Section 24871 of the Revenue and Taxation Code is
37 amended to read:

38 24871. (a) (1) Section 852(b)(1) of the Internal Revenue Code,
39 relating to imposition of tax on regulated investment companies,
40 shall not apply.

1 (2) Every regulated investment company shall be subject to the
2 taxes imposed under Chapter 2 (commencing with Section 23101)
3 and Chapter 3 (commencing with Section 23501), except that its
4 “net income” shall be equal to its “investment company income,”
5 as defined in subdivision (b).

6 (3) (A) Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code
7 is modified by substituting “\$12,500” for “\$50,000.”

8 (B) Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is
9 modified by substituting the phrase “the rate of tax specified in
10 Section 23151” for the phrase “the highest rate of tax specified in
11 section 11” contained therein.

12 (C) Section 851(d)(2)(C)(iii) of the Internal Revenue Code,
13 relating to administrative provisions, is modified by substituting
14 the phrase “Article 3 of Part 10.2 (commencing with Section
15 19031), a tax imposed by this subparagraph shall be treated as a
16 tax with respect to which the deficiency procedures of such article
17 apply” for the phrase “subtitle F, a tax imposed by this
18 subparagraph shall be treated as an excise tax with respect to which
19 the deficiency procedures of such subtitle apply” contained therein.

20 (D) Section 851(i)(2) of the Internal Revenue Code, relating to
21 imposition of tax on failures, shall not apply.

22 (b) “Investment company income” means investment company
23 taxable income, as defined in Section 852(b)(2) of the Internal
24 Revenue Code, modified as follows:

25 (1) Section 852(b)(2)(A) of the Internal Revenue Code, relating
26 to an exclusion for net capital gain, does not apply.

27 (2) Section 852(b)(2)(B) of the Internal Revenue Code, relating
28 to net operating losses, is modified to deny the deduction allowed
29 under Sections 24416 and 24416.1, in lieu of denying the deduction
30 allowed by Section 172 of the Internal Revenue Code.

31 (3) In lieu of the provision of Section 852(b)(2)(C) of the
32 Internal Revenue Code, relating to special deductions for
33 corporations, no deduction shall be allowed under Sections 24402,
34 24406, 24410, and 25106.

35 (4) The deduction for dividends paid, under Section
36 852(b)(2)(D) of the Internal Revenue Code, is modified to allow
37 capital gain dividends and exempt interest dividends (to the extent
38 that interest is included in gross income under this part) to be
39 included in the computation of the deduction.

1 (c) Section 852(b)(3)(A) of the Internal Revenue Code, relating
2 to imposition of tax, shall not apply.

3 (d) (1) Section 852(b)(5) of the Internal Revenue Code, relating
4 to exempt-interest dividends, is modified by substituting the phrase
5 “that, when held by an individual, the interest therefrom is exempt
6 from taxation by this state” for the phrase “described in section
7 103(a)” contained therein.

8 (2) Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code,
9 relating to exempt interest, is modified by substituting the phrase
10 “on obligations that, if held by an individual, is exempt from
11 taxation by this state, over the amounts disallowed as deductions
12 under subdivision (b) of Section 24360 or Section 24425” for the
13 phrase “excludable from gross income under section 103(a) over
14 the amounts disallowed as deductions under sections 265 and
15 171(a)(2)” contained therein.

16 (3) Section 852(b)(5)(B) of the Internal Revenue Code, relating
17 to treatment of exempt-interest dividends by shareholders, shall
18 not apply.

19 (e) Section 854 of the Internal Revenue Code, relating to
20 limitations applicable to dividends received from regulated
21 investment companies, is modified to refer to Sections 24402,
22 24406, 24410, and 25106, in lieu of Section 243 of the Internal
23 Revenue Code.

24 (f) Section 852(g)(1)(A) of the Internal Revenue Code is
25 modified by substituting the phrase “subdivision (a) of Section
26 17145” for the phrase “the first sentence of subsection (b)(5)”
27 contained therein.

28 SEC. 38. Section 24871.1 of the Revenue and Taxation Code
29 is repealed.

30 SEC. 39. Section 24990.5 of the Revenue and Taxation Code
31 is amended to read:

32 24990.5. (a) Section 1201 of the Internal Revenue Code,
33 relating to alternative tax for corporations, shall not be applicable.

34 (b) The provisions of Section 1212 of the Internal Revenue
35 Code, relating to capital loss carrybacks and carryovers, are
36 modified as follows:

37 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating
38 to capital loss carrybacks, shall not apply.

39 (2) Section 1212(a)(4) of the Internal Revenue Code, relating
40 to special rules on carrybacks, shall not apply.

1 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,
2 relating to other taxpayers and carryback of losses from Section
3 1256 contracts to offset prior gains from such contracts,
4 respectively, shall not apply.

5 SEC. 40. (a) Except as otherwise provided, the provisions of
6 this act shall apply to taxable years beginning on or after January
7 1, 2015.

8 (b) Sections 201 to 221, inclusive, of the Tax Technical
9 Corrections Act of 2014 (Title II of Division A of Public Law
10 113-295), enacted numerous technical corrections and clarifications
11 to provisions of the Internal Revenue Code, including technical
12 corrections and clarifications relating to the American Taxpayer
13 Relief Act of 2012 (Public Law 112-240), the Middle Class Tax
14 Relief and Job Creation Act of 2012 (Public Law 112-96), the
15 FAA Modernization and Reform Act of 2012 (Title IX of Public
16 Law 112-95), the Regulated Investment Company Modernization
17 Act of 2010 (Public Law 111-325), the Tax Relief, Unemployment
18 Insurance Reauthorization, and Job Creation Act of 2010 (Public
19 Law 111-312), the Creating Small Business Jobs Act of 2010 (Title
20 II of Public Law 111-240), the Hiring Incentives to Restore
21 Employment Act (Public Law 111-147), the American Recovery
22 and Reinvestment Tax Act of 2009 (Public Law 111-5), the
23 Economic Stimulus Act of 2008 (Division A of Public Law
24 110-343), the Energy Improvement and Extension Act of 2008
25 (Division B of Public Law 110-343), the Tax Extenders and
26 Alternative Minimum Tax Relief Act of 2008 (Division C of Public
27 Law 110-343), the Housing Assistance Tax Act of 2008 (Division
28 C of Public Law 110-289), the Heroes Earnings Assistance and
29 Relief Tax Act of 2008 (Public Law 110-245), the Tax Technical
30 Corrections Act of 2007 (Public Law 110-172), the Tax Relief and
31 Health Care Act of 2006 (Public Law 109-432), the Safe,
32 Accountable, Flexible, Efficient Transportation Equity Act of
33 2005: A Legacy for Users (Public Law 109-59), the Energy Tax
34 Incentives Act of 2005 (Title XIII of Public Law 109-58), and the
35 American Jobs Creation Act of 2004 (Public Law 108-357), some
36 of which are incorporated by reference into Part 10 (commencing
37 with Section 17001), Part 10.2 (commencing with Section 18401),
38 and Part 11 (commencing with Section 23001) of Division 2 of
39 the Revenue and Taxation Code. Unless otherwise provided, the
40 technical corrections described in the preceding sentence, to the

1 extent that they correct provisions that are incorporated by
2 reference into the Revenue and Taxation Code, are declaratory of
3 existing law and shall be applied in the same manner and for the
4 same periods as specified for federal purposes, or if later, the
5 specified date of incorporation.

6 SEC. 41. It is the intent of the Legislature to confirm the
7 validity and ongoing effect of Senate Bill No. 401 of the 2009–10
8 Regular Session.

9 ~~SEC. 42. This act provides for a tax levy within the meaning~~
10 ~~of Article IV of the Constitution and shall go into immediate effect.~~

11 *SEC. 42. This act is an urgency statute necessary for the*
12 *immediate preservation of the public peace, health, or safety within*
13 *the meaning of Article IV of the Constitution and shall go into*
14 *immediate effect. The facts constituting the necessity are:*

15 *In order to provide much needed tax relief to taxpayers in*
16 *conformity with federal tax relief enacted in the last four years*
17 *and to alleviate administrative burdens on state tax agencies, it is*
18 *necessary that this act go into immediate effect.*